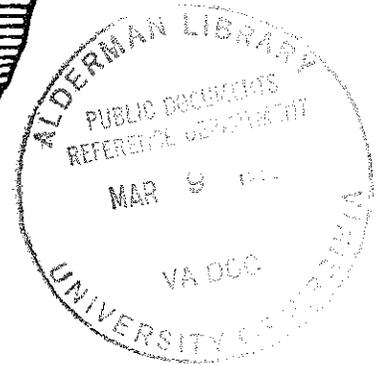
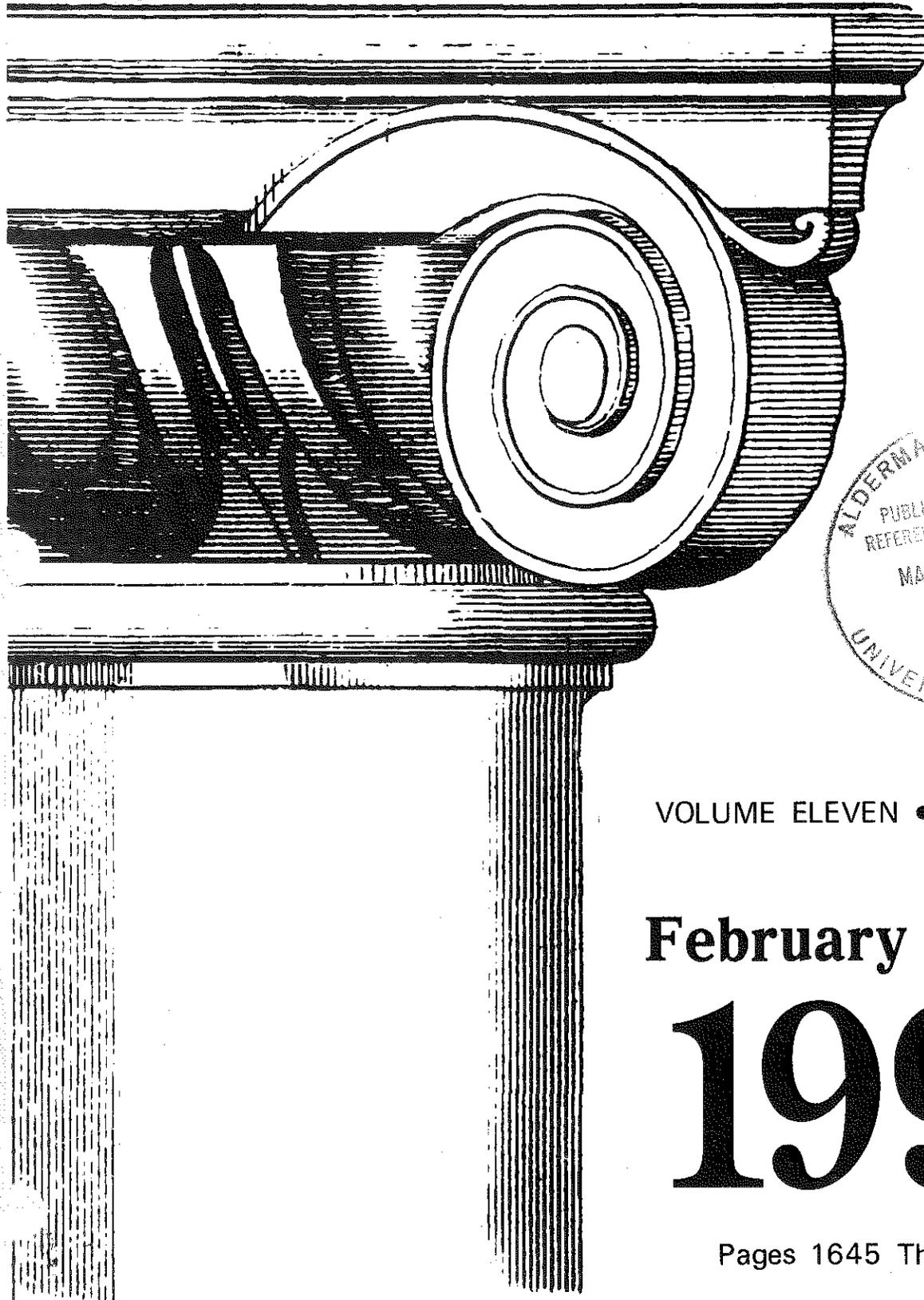


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THE VIRGINIA REGISTER

OF REGULATIONS

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February 20, 1995

1995

Pages 1645 Through 1880

VIRGINIA REGISTER

The *Virginia Register* is an official state publication issued every other week throughout the year. Indexes are published quarterly, and the last index of the year is cumulative.

The *Virginia Register* has several functions. The full text of all regulations, both as proposed and as finally adopted or changed by amendment, is required by law to be published in the *Virginia Register of Regulations*.

In addition, the *Virginia Register* is a source of other information about state government, including all Emergency Regulations issued by the Governor, and Executive Orders, the Virginia Tax Bulletin issued periodically by the Department of Taxation, and notices of all public hearings and open meetings of state agencies.

ADOPTION, AMENDMENT, AND REPEAL OF REGULATIONS

An agency wishing to adopt, amend, or repeal regulations must first publish in the *Virginia Register* a notice of proposed action; a basis, purpose, impact and summary statement; a notice giving the public an opportunity to comment on the proposal; and the text of the proposed regulations.

Under the provisions of the Administrative Process Act, the Registrar has the right to publish a summary, rather than the full text, of a regulation which is considered to be too lengthy. In such case, the full text of the regulation will be available for public inspection at the office of the Registrar and at the office of the promulgating agency.

Following publication of the proposal in the *Virginia Register*, sixty days must elapse before the agency may take action on the proposal.

During this time, the Governor and the General Assembly will review the proposed regulations. The Governor will transmit his comments on the regulations to the Registrar and the agency and such comments will be published in the *Virginia Register*.

Upon receipt of the Governor's comment on a proposed regulation, the agency (i) may adopt the proposed regulation, if the Governor has no objection to the regulation; (ii) may modify and adopt the proposed regulation after considering and incorporating the Governor's suggestions; or (iii) may adopt the regulation without changes despite the Governor's recommendations for change.

The appropriate standing committee of each branch of the General Assembly may meet during the promulgation or final adoption process and file an objection with the Registrar and the promulgating agency. The objection will be published in the *Virginia Register*. Within twenty-one days after receipt by the agency of a legislative objection, the agency shall file a response with the Registrar, the objecting legislative committee, and the Governor.

When final action is taken, the promulgating agency must again publish the text of the regulation as adopted, highlighting and explaining any substantial changes in the final regulation. A thirty-day final adoption period will commence upon publication in the *Virginia Register*.

The Governor will review the final regulation during this time and if he objects, forward his objection to the Registrar and the agency. His objection will be published in the *Virginia Register*. If the Governor finds that changes made to the proposed regulation are substantial, he may suspend the regulatory process for thirty days and require the agency to solicit additional public comment on the substantial changes.

A regulation becomes effective at the conclusion of this thirty-day final adoption period, or at any other later date specified by the promulgating agency, unless (i) a legislative objection has been filed, in which event the regulation, unless withdrawn, becomes effective on the date specified, which shall

be after the expiration of the twenty-one day extension period; or (ii) the Governor exercises his authority to suspend the regulatory process for solicitation of additional public comment, in which event the regulation, unless withdrawn, becomes effective on the date specified, which shall be after the expiration of the period for which the Governor has suspended the regulatory process.

Proposed action on regulations may be withdrawn by the promulgating agency at any time before the regulation becomes final.

EMERGENCY REGULATIONS

If an agency determines that an emergency situation exists, it then requests the Governor to issue an emergency regulation. The emergency regulation becomes operative upon its adoption and filing with the Registrar of Regulations, unless a later date is specified. Emergency regulations are limited in time and cannot exceed a twelve-month duration. The emergency regulations will be published as quickly as possible in the *Virginia Register*.

During the time the emergency status is in effect, the agency may proceed with the adoption of permanent regulations through the usual procedures (See "Adoption, Amendment, and Repeal of Regulations," above). If the agency does not choose to adopt the regulations, the emergency status ends when the prescribed time limit expires.

STATEMENT

The foregoing constitutes a generalized statement of the procedures to be followed. For specific statutory language, it is suggested that Article 2 of Chapter 1.1:1 (§§ 9-6.14:6 through 9-6.14:9) of the Code of Virginia be examined carefully.

CITATION TO THE VIRGINIA REGISTER

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NOTICES OF INTENDED REGULATORY ACTION

Symbol Key †

† Indicates entries since last publication of the Virginia Register

DEPARTMENT OF CORRECTIONS (STATE BOARD OF)

Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Board of Corrections intends to consider promulgating regulations entitled: **VR 230-01-06. Regulations for Private Management and Operation of Prison Facilities.** The purpose of the proposed action is to establish minimum standards for the administration and operation of private prisons. The agency intends to hold a public hearing on the proposed regulation after publication.

Statutory Authority: § 53.1-266 of the Code of Virginia.

Written comments may be submitted until February 24, 1995.

Contact: Amy Miller, Regulatory Coordinator, Department of Corrections, 6900 Atmore Dr., Richmond, VA 23225, telephone (804) 674-3119.

VA.R. Doc. No. R95-224; Filed January 4, 1995, 12:05 p.m.

DEPARTMENT OF MEDICAL ASSISTANCE SERVICES

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Department of Medical Assistance Services intends to consider promulgating regulations entitled: **VR 460-01-66.2. Vaccines for Children Administration Fee.** The purpose of the proposed action is to promulgate permanent regulations to supersede the current identical emergency regulation for the vaccines administration fee. The regulation that the agency intends to propose for public comment period is a preprinted page issued by the Health Care Financing Administration for inclusion in all State Plans for Medical Assistance. This regulation will incorporate into the State Plan the required administration fee for the Vaccines for Children Program in conformance with federal requirements. The agency does not intend to hold public hearings on this issue.

Statutory Authority: § 32.1-325 of the Code of Virginia.

Written comments may be submitted until March 22, 1995, to Sally Rice, Division of Client Services, Department of Medical Assistance Services, 600 East Broad Street, Suite

1300, Richmond, Virginia 23219.

Contact: Victoria P. Simmons, Regulatory Coordinator, Department of Medical Assistance Services, 600 E. Broad St., Suite 1300, Richmond, VA 23219, telephone (804) 371-8850.

VA.R. Doc. No. R95-958; Filed February 1, 1995, 11:19 a.m.

DEPARTMENT OF MINES, MINERALS AND ENERGY

Board of Mineral Mining Examiners

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board of Mineral Mining Examiners intends to consider repealing regulations entitled: **VR 480-04-2. Board of Examiners Certification Regulations.** The purpose of the proposed action is to replace the provisions in the Board of Examiners regulations governing mineral miner certifications with ones promulgated under the new Board of Mineral Mining Examiners established by the 1994 General Assembly. The agency intends to hold a public hearing on the proposed repeal after publication.

Statutory Authority: § 45.1-161.46 C of the Code of Virginia.

Written comments may be submitted until March 8, 1995.

Contact: Conrad T. Spangler, Chairman, Board of Mineral Mining Examiners, Division of Mineral Mining, P.O. Box 3727, Charlottesville, VA 22903-0727, telephone (804) 961-5000 or toll-free 1-800-828-1120 (Virginia Relay Center)

VA.R. Doc. No. R95-247; Filed January 17, 1995, 3:32 p.m.

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board of Mineral Mining Examiners intends to consider promulgating regulations entitled: **VR 480-04-3. Certification Requirements for Mineral Miners.** The purpose of the proposed action is to establish a separate regulation setting requirements for the certification of mineral miners. The 1994 General Assembly established the Board of Mineral Mining Examiners as a board separate from the Board of Examiners, which previously oversaw certification of both coal and mineral miners. The agency intends to hold a public hearing on the proposed regulation after publication.

Statutory Authority: § 45.1-161.46 C of the Code of Virginia.

Notices of Intended Regulatory Action

Written comments may be submitted until March 8, 1995.

Contact: Conrad T. Spangler, Chairman, Board of Mineral Mining Examiners, Division of Mineral Mining, P.O. Box 3727, Charlottesville, VA 22903-0727, telephone (804) 961-5000 or toll-free 1-800-828-1120 (Virginia Relay Center)

VA.R. Doc. No. R95-248; Filed January 17, 1995, 3:31 p.m.

DEPARTMENT OF STATE POLICE

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Department of State Police intends to consider promulgating regulations entitled: **VR 545-01-18. Regulations Governing the Operation and Maintenance of the Sex Offender Registry.** The purpose of the proposed regulation is to replace emergency regulations currently in effect. The Department of State Police is required to govern the operation and maintenance of the Sex Offender Registry as required by § 19.2-390.1 of the Code of Virginia. No public hearing is planned after publication of the proposed regulation.

Statutory Authority: § 19.2-390.1 of the Code of Virginia.

Written comments may be submitted until February 23, 1995.

Contact: Lieutenant John G. Weakley, Assistant Records Management Officer, P.O. Box 27472, Richmond, VA 23261, telephone (804) 674-2022.

VA.R. Doc. No. R95-223; Filed January 4, 1995, 12:22 p.m.

PROPOSED REGULATIONS

For information concerning Proposed Regulations, see information page.

Symbol Key

Roman type indicates existing text of regulations. *Italic type* indicates proposed new text. Language which has been stricken indicates proposed text for deletion.

DEPARTMENT OF CRIMINAL JUSTICE SERVICES (CRIMINAL JUSTICE SERVICES BOARD)

Title of Regulation: VR 240-03-2. Regulations Relating to Private Security Services.

Statutory Authority: § 9-182 of the Code of Virginia.

Public Hearing Date: May 3, 1995 – 9 a.m.

Written comments may be submitted through April 21, 1995.

(See Calendar of Events section for additional information)

Basis: Pursuant to the statutory authority set forth in § 9-182 of the Code of Virginia, the Criminal Justice Services Board (CJSB) will amend and revise its regulations relating to private security services. The primary basis for amending the regulations is to incorporate necessary amendments resulting from the approval of House Bills 393 and 395 by the 1994 General Assembly and the Governor. The two bills establish a mandate for the Department of Criminal Justice Services (DCJS) to regulate through registration and/or licensure personal protection specialists and electronic security businesses and personnel on and after July 1, 1995. Therefore, the CJSB must amend existing regulations to set minimum standards and procedures for the application, registration, and training of the new additional private security professionals of which the new laws mandate regulation.

Purpose: The purpose of these regulations is to set forth a regulatory program which mandates and prescribes standards, requirements, and procedures that best serve to protect the public safety and welfare from unqualified, unscrupulous, and incompetent persons engaged in the activities of private security services. Private security services includes the personnel engaged in personal protection specialists and electronic security services.

Substance: Key provisions of these regulations include (i) Part I, which identifies, defines and includes electronic security business in the definition of private security services business and incorporates designated employees of an electronic security business and personal protection specialist in the definition of "Private security services business personnel"; (ii) Part VII, which sets forth the compulsory minimum training standards and requirements for those persons identified, defined and incorporated in the definition of private security services business personnel; and (iii) Part XI, which prescribes standards of conduct and sets forth prohibited practices for persons engaged in the activities of private security services.

Issues: The primary advantages that these regulations provide to the general public are to: (i) set forth standards, procedures, and requirements that serve to protect the safety and welfare of the general public from deceptive or misleading private security services business practitioners; and (ii) secure the public safety and welfare against incompetent, unscrupulous and unqualified persons by establishing methods of licensure, certification and registration that serve to enhance the competency of persons performing or engaged in the activities of private security services. A possible disadvantage of these regulations to the general public is that businesses may pass the costs of licensure, certification and registration on to the general public through the fees charged for the services of those businesses. The primary advantage that these regulations provide to the Commonwealth is that the regulations establish the necessary standards, procedures, and requirements that serve to protect the public safety and welfare against incompetent, unscrupulous and unqualified persons engaged in the activities of private security services as mandated by the Code of Virginia. There are no known disadvantages of these regulations for the Commonwealth.

Estimated Impact:

A. Projected Number of Persons Affected: The estimated number of persons affected by these regulations is projected to be approximately 11,000 to 14,000. This projection includes owners of private security businesses, employees of such businesses, training directors, instructors, and others that may be engaged in the activities of private security services.

B. Projected Cost For Implementation: These proposed regulations amend and revise the existing regulations relating to private security services. The projected agency cost associated with the implementation of electronic security businesses and personnel and personal protection specialists into the existing regulations is approximately \$142,845 for FY 94-95. The \$142,845 figure was arrived at by estimating the costs related to computer programming associated with the new categories, reprogramming of the computer generated photo identification cards and revision of the necessary forms and applications to administer the program and the addition of one full-time employee (FTE). The projected agency cost to implement these proposed regulations does not differ significantly from the cost associated with implementing the existing regulations. A proposed budget which represents the agency's best estimate of the costs projected to implement these regulations has been developed and is on file with the department.

Proposed Regulations

Audits, training inspections, and compliance investigations are integral components of these regulations. To perform these functions, statewide travel is anticipated for three FTE's. Travel costs may include lodging, meals, and automobile expenses. Projected annual cost for travel to assure compliance is estimated to be approximately \$21,600.

Additionally, projected cost associated with compliance may include the costs associated with the adjudication process. Such costs may include hearing officer or attorney fees, court reporter, and service of process. This cost is not expected to exceed \$11,000 annually. The projected annual cost for compliance is estimated to be \$110,000.

C. Projected Industry Cost for Compliance: These regulations will be part of a special fund program. The industry, through registration, licensing and certification fees, provides the funding for this program. No general fund money is allocated for this program. Therefore, the estimated cost to the industry for compliance and implementation for FY 1995 is \$142,845 and for FY 1996 the estimated industry cost is \$257,570.

Affected Locality: Further, these regulations do not impact disproportionately upon any locality.

Summary:

The purpose of these regulations is to set forth a regulatory program that protects the public from unscrupulous, incompetent or unqualified persons engaging in the activities of private security services; and to prescribe standards and procedures that will guide the department and inform the general public of the methods, process, and requirements relating to the administration, operation, licensing, registration, training, and certification of persons engaged in the activities of private security services.

These proposed regulations establish requirements and prescribe procedures as to how to obtain a private security services business license, a private security services registration or a training certification. Additionally, these regulations set forth standards of training, standards of conduct, and prohibited practices relating to persons engaged in the activities of private security services.

Essentially, these regulations address the operation, administration, and enforcement procedures relating to private security services; establish methods, standards, and procedures for training, registration, and certification of private security services business personnel, and set forth standards of conduct and prohibited practices for persons engaged in the business or activities relating to private security services.

VR 240-03-2. Regulations Relating to Private Security

Services.

PART I. DEFINITIONS.

§ 1.1. Definitions.

The following words and terms, when used in these regulations, shall have the following meaning, unless the context clearly indicates otherwise.

"Alarm respondent" means a natural person who responds to the first signal of alarm of the home, business or property of the end user.

"Armed security officer" means a security officer, as defined below, who carries or has immediate access to a firearm or other deadly weapon in the performance of his duties.

"Armored car personnel" means persons who transport or offer to transport under armed security from one place to another, money, negotiable instruments or other valuables in a specially equipped motor vehicle with a high degree of security and certainty of delivery.

"Board" means the Criminal Justice Services Board or any successor board or agency.

"Bodyguard" means a security officer, armed or unarmed as defined herein until June 30, 1995.

"Central station dispatcher" means a natural person who monitors burglar alarm signal devices, burglar alarms or any other electrical, mechanical or electronic device used to prevent or detect burglary, theft, shoplifting, pilferage or similar losses; used to prevent or detect intrusion; or used primarily to summon aid for other emergencies.

"Certified school director" means the chief administrative officer of a certified training school.

"Certified training school" means a training school which provides instruction in at least the minimum training mandated and is certified by the department for the specific purpose of training private security services business personnel.

"Class" means a minimum of 50 minutes of instruction on a particular subject.

"Combat load" means tactical loading of shotgun while maintaining coverage of threat area.

"Compliance agent" means a natural person who is an owner of, or employed by, a licensed private security services business. The compliance agent shall assure the compliance of the private security services business with all applicable requirements as provided in § 9-183.3 of the Code of Virginia.

"*Courier*" means any armed person who transports or offers to transport from one place to another documents or other papers, negotiable or nonnegotiable instruments, or other small items of value that require expeditious service.

"*Department*" means the Department of Criminal Justice Services or any successor agency.

"*Director*" means the chief administrative officer of the department.

"*Electronic security business*" means any person who engages in the business of or undertakes to (i) install, service, maintain, design or consult in the design of any electronic security equipment to an end user; or (ii) respond to or cause a response to electronic security equipment for an end user.

"*Electronic security employee*" means a natural person who is employed by an electronic security business in any capacity which may give him access to information concerning the design, extent or status of an end user's electronic security equipment.

"*Electronic security equipment*" means electronic or mechanical alarm signaling devices including burglar alarms or holdup alarms or cameras used to detect intrusion, concealment or theft.

"*Electronic security sales representative*" means a natural person who sells electronic security equipment on behalf of an electronic security business to the end user.

"*Electronic security technician*" means a natural person who installs, services, maintains or repairs electronic security equipment.

"*End user*" means any person who purchases or leases electronic security equipment for use in that person's home or business.

"*Engaging in the business of providing or undertaking to provide private security services*" means any person who solicits business within the Commonwealth of Virginia through advertising, business cards, submission of bids, contracting, public notice for private security services, directly or indirectly, or by any other means.

"*Firearms certification*" means the verification of successful completion of either initial or retraining requirements for handgun or shotgun training, or both.

"*Firm*" means a business entity, regardless of method of organization, applying for a private security services business license or for the renewal or reinstatement of same.

"*Guard dog handler*" means any person employed by a private security services business to handle dogs in the performance of duty in protection of property or persons.

"*In-service training requirement*" means the compulsory in-service training standards adopted by the Criminal Justice Services Board for private security services business personnel.

"*Licensed firm*" means a business entity, regardless of method of organization, which holds a valid private security services business license issued by the department.

"*Licensee*" means a licensed private security services business.

"*Locksmith security equipment*" means mechanical, electrical or electro-mechanical locking devices for the control of ingress or egress that do not primarily detect intrusion, concealment and theft.

"*On duty*" means that time during which a registrant or unarmed security officer receives or is entitled to receive compensation for employment for which a registration or training certification is required and that time while he is traveling, immediately before and after the period of actual duty, to and from the place of duty.

"*Person*" means any individual, group of individuals, firm, company, corporation, partnership, business, trust, association, or other legal entity.

"*Personal protection specialist*" specialist," on and after July 1, 1995, means any person who engages in the business of providing protection from bodily harm to another.

"*Principal*" means any sole proprietor, officer or director of the corporation, member of the association, or partner of a licensed firm or applicant for licensure.

"*Private investigator*" means any person who engages in the business of, or accepts employment to make, investigations to obtain information on (i) crimes or civil wrongs; (ii) the location, disposition, or recovery of stolen property; (iii) the cause of accidents, fires, damages, or injuries to persons or to property; or (iv) evidence to be used before any court, board, officer, or investigative committee.

"*Private security services business*" means any person engaged in the business of providing, or who undertakes to provide, (i) armored car personnel, security officers, personal protection specialists, private investigators, couriers, or guard dog handlers to another person under contract, express or implied; or (ii) alarm respondents, central station dispatchers, electronic security employees, electronic security sales representatives or electronic security technicians to another person under contract, express or implied.

"*Private security services business personnel*" means each employee of a private security services business who is employed as an unarmed security officer, armed security officer/courier, armored car personnel, guard dog

Proposed Regulations

handler private investigator, personal protection specialist, alarm respondent, central station dispatcher, electronic security employee, electronic security sales representative or electronic security technician.

"*Registrant*" means any individual who has met the requirements for registration in any of the categories listed under "registration category."

"*Registration*" means a method of regulation whereby certain personnel employed by a private security services business are required to obtain a registration from the department pursuant to Part V of this regulation.

"*Registration category*" means any one of the following categories: (i) armed security officer/courier, (ii) guard dog handler, (iii) armored car personnel, (iv) private investigator, (v) personal protection specialist, (vi) alarm respondent, (vii) central station dispatcher, (viii) electronic security sales representative, or (ix) electronic security technician.

"*Security officer*" means any person employed by a private security service business to safeguard and protect persons and property or to prevent theft, loss, or concealment of any tangible or intangible personal property.

"*Session*" means a group of classes comprising the total hours of mandated training in any of the following categories: unarmed security officer, armed security officer/courier, personal protection specialist, armored car personnel, guard dog handler, private investigator, alarm respondent, central station dispatcher, electronic security sales representative, electronic security technician or or compliance agent.

"*Store detective*" means a security officer in the context of these regulations.

"*Training certification*" means verification of the successful completion of any training requirement established in these regulations.

"*Training requirement*" means any initial or retraining standard established in these regulations.

"*Unarmed security officer*" means a security officer who does not carry or have immediate access to a firearm or other deadly weapon in the performance of his duties.

"*Unarmed security officer training certification*" means verification that the individual has passed the Virginia Criminal Records Search (VSP-167), and of the successful completion of either initial or in-service unarmed security officer training requirements.

"*Undercover person*" means a private investigator in the context of these regulations.

"*Uniform*" means any clothing with a badge, patch or

lettering which clearly identifies persons to any observer as private security services business personnel, not law-enforcement officers.

PART II. SCHEDULE OF FEES.

§ 2.1. *Schedule of fees.*

A. The fees listed below reflect the costs of handling, issuance, and production associated with administering and processing applications for licensing, registration, certification and other administrative requests for services relating to private security services.

Categories	Fees
Initial business license	\$600
Business license renewal	\$250
Initial compliance agent	\$126
Initial registration	\$ 76
Registration renewal	\$ 35
Initial training school	\$500
Training school renewal	\$250
Firearms training credit	\$ 25
Instructor	\$ 50
Instructor renewal	\$ 10
Initial unarmed security officer training certification	\$ 15
Unarmed security officer training certification renewal	\$ 15
Application for exemption	\$ 35
Unarmed security officer training session	\$ 10
Private investigator training session	\$ 25
Armored car training session	\$ 15
Armed security officer training session	\$ 15
Firearms training session	\$ 10
Guard dog handler training session	\$ 15
In-service training session	\$ 10
Firearms retraining session	\$ 10
Fingerprint card processing	\$ 41
Additional registration categories	\$ 25
Replacement photo identification	\$ 15
Training completion roster form	\$ 10

§ 2.2. *Reinstatement fee.*

A. The department shall collect a reinstatement fee for registration, license, or certification, renewal applications not received on or before the expiration date of the expiring registration, license, or certification.

B. The reinstatement fee shall be 50% above and beyond the renewal fee of the registration, license, certification, or any other credential issued by the department wherein a fee is established and renewal is required.

§ 2.3. *Dishonor of fee payment due to nonsufficient funds.*

A. The department may suspend the registration, license,

certification, or authority it has granted any person, licensee or registrant who submits a check or similar instrument for payment of a fee required by statute or regulation which is not honored by the financial institution upon which the check or similar instrument is drawn.

B. The suspension shall become effective upon receipt of written notice of the dishonored payment. Upon notification of the suspension, the person, registrant or licensee may request that the suspended registration, license, certification, or authority be reinstated, provided payment of the dishonored amount plus any penalties or fees required under the statute or regulation accompany the request. Suspension under this provision shall be exempt from the Administrative Process Act.

PART III. LICENSING PROCEDURES AND REQUIREMENTS.

§ 3.1. Initial licensing requirements for a private security services business.

Each person seeking a license as a private security services business shall file an application furnished by the department accompanied by a nonrefundable application fee of \$600. Each principal of the business entity applying for a private security services business license must be listed on the application *and is responsible for the firm's adherence to the Code of Virginia and these regulations*. Each person listed on the application shall complete a supplemental business license application and submit *his fingerprint cards* on one completed set of two fingerprint cards along with a nonrefundable fee of \$41; however, a maximum of two sets of fingerprint cards may accompany the application at no additional cost. Licenses shall be issued for a period not to exceed 12 months. All forms shall be completed in full compliance with the instructions provided by the department. Applicants shall meet or exceed the requirements of §§ 3.2 through 3.14 prior to the issuance of a license.

§ 3.2. Surety bond or insurance required.

Each person seeking a license as a private security services business shall secure a surety bond in the amount of \$25,000, executed by a surety company authorized to do business in Virginia, or a certificate of insurance showing a policy of comprehensive general liability insurance with a minimum coverage of \$100,000 and \$300,000, issued by an insurance company authorized to do business in Virginia. *Documentation of continuous and current coverage of the surety bond or comprehensive general liability insurance must be filed and maintained with the department.*

§ 3.3. Irrevocable consent.

Each nonresident applicant for a license or nonresident licensee shall, on a form provided by the department, file and maintain with the department an irrevocable consent for the department to serve as service agent for all

actions filed in any court in this Commonwealth.

§ 3.4. Compliance agent *required*; certification requirements; duties and responsibilities; restriction; retention and replacement.

A. Each firm applying for a license as a private security services business shall designate at least one individual as compliance agent who is not designated as compliance agent for any other licensee. To become a compliance agent, an individual shall file a properly completed application furnished by the department and conform to the following requirements and procedures:

1. Be a minimum of 18 years of age;
2. Have three years of managerial or supervisory experience in a private security services business, or in a federal, state, or local law-enforcement agency, or in a related field;
3. Successfully complete the applicable compliance agent training requirements pursuant to §§ 7.9 F and 7.10 E and achieve a ~~minimum of 70%~~ *passing score* on the compliance agent examination;
4. Be designated by a licensed private security services business as its compliance agent;
5. Be in good standing in every jurisdiction where licensed or registered in private security services; and
6. Submit *his fingerprints* on two completed fingerprint cards, as provided by the department, and a nonrefundable application fee of \$126.

B. The compliance agent shall at all times comply with the following:

1. Ensure that the licensed firm is in full compliance with the Code of Virginia and these regulations;
2. Ensure that VSP Form-167 has been ~~processed by~~ *submitted to the Virginia State Police for processing before the individual may begin work*, and ~~maintained~~ *maintain a copy* in the firm's files for each unarmed guard as required by § 9-183.3 of the Code of Virginia;
3. Ensure the maintenance of documentary evidence that each unarmed guard has complied with, or been exempted from, the compulsory minimum training standards as required by § 9-183.3 of the Code of Virginia;
4. Ensure that the licensed firm does not utilize or otherwise employ any person as an unarmed security officer in excess of 90 days prior to the completion of the compulsory minimum training standards for unarmed security officer;
5. Maintain training, employment, and payroll records

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which document the licensee's compliance with the Code of Virginia and these regulations;

6. Ensure that an irrevocable consent for the department to serve as service agent for all actions filed in any court in this Commonwealth is submitted to the department within 30 days after the licensee moves to a location outside Virginia.

C. No individual shall be certified by the department as a compliance agent for more than one licensee at any given time.

D. 1. Each licensee shall maintain at least one individual as a compliance agent who has met the requirements of § 3.4 of these regulations and has been certified by the department.

2. Each licensee shall notify the department in writing within 10 calendar days of the termination of employment of a certified compliance agent.

3. Within 90 days of termination of the employment of a licensee's sole remaining compliance agent, the licensee shall submit ~~on a form provided by the department~~, the name of a new compliance agent who has met the requirements of § 3.4 of these regulations.

§ 3.5. Criminal history records search.

Upon application for a private security services business license, each compliance agent and principal of the applicant firm shall submit to the department *their fingerprints* on one completed set of two fingerprint cards on forms provided by the department, and a \$41 nonrefundable fee for each set of fingerprint cards beyond the allowable two sets provided with the initial business application. The department shall submit those fingerprints to the Virginia State Police for the purpose of conducting a Virginia Criminal History Records search and a National Criminal Records search to determine whether the individual or individuals have a record of conviction.

§ 3.6. Unclassifiable fingerprint cards.

Fingerprint cards found to be unclassifiable will be returned to the applicant. Action on the application will be suspended pending the resubmittal of classifiable fingerprint cards. The applicant should be so notified in writing and shall submit new fingerprint cards and a nonrefundable fee of \$41 to the department before the processing of his application shall resume. However, no such fee may be required if the rejected fingerprint cards are included and attached to the new fingerprint cards when resubmitted.

§ 3.7. Basis for denial of licensure.

A. The department may deny licensure to a firm in which any compliance agent or principal has been convicted in any jurisdiction of any felony or of a

misdemeanor involving moral turpitude, sexual offense, drug offense, physical injury or property damage. Any plea of nolo contendere shall be considered a conviction for the purposes of these regulations. The record of a conviction, authenticated in such form as to be admissible in evidence under the laws of the jurisdiction where convicted, shall be admissible as prima facie evidence of such conviction.

B. The department may deny licensure to a firm in which any compliance agent or principal has not maintained good standing in every jurisdiction where licensed or registered or has had his license or registration denied upon initial application, suspended, revoked, surrendered, not renewed, or otherwise disciplined in connection with a disciplinary action prior to applying for licensure in Virginia.

C. The department may deny licensure to a firm for other just cause.

§ 3.8. Physical address.

Each firm applying for a private security services business license shall provide the department with its physical address in Virginia at which records required to be maintained by the Code of Virginia and these regulations are kept and available for inspection by the department. A post office box is not a physical address.

§ 3.9. Authority to inspect.

Each licensee shall permit the department to inspect, review, or copy those documents, business records or training records in the compliance agent's or licensed firm's possession that are required to be maintained by the Code of Virginia and these regulations.

§ 3.10. Display of license.

The private security services business license issued by the department shall be prominently displayed for public inspection at all times.

§ 3.11. Change of ownership or entity.

A. Each licensee shall report in writing to the department any change in its ownership or principals which does not result in the creation of a new legal entity. Such written report shall be received by the department within 30 days after the occurrence of such change and shall include the application form, fingerprint cards and a nonrefundable fee of \$41 for each new individual.

B. A new license is required whenever there is any change in the ownership or manner of organization of the licensed entity which results in the creation of a new legal entity.

§ 3.12. Change of name or address.

Each licensee shall upon application, and at all times,

keep the department informed of its physical address, and shall report in writing to the department any change in its name or physical address no later than 15 days after the effective date of that change. Name change reports shall be accompanied by certified true copies of the documents which establish the name change. A post office box is not a physical address.

§ 3.13. Transfer of license prohibited.

Each license shall be issued to the legal business entity named on the application, whether it be a sole proprietorship, partnership, corporation, or other legal entity, and shall be valid only for the legal entity named on the license. No license shall be assigned or otherwise transferred to another legal entity.

§ 3.14. Exemptions.

The ~~director~~ department may grant a temporary exemption from the requirement of licensure for a period of not more than 30 days in a situation deemed an emergency by the department.

§ 3.15. Probation, suspension, and revocation.

The certified compliance agent and licensed private security services business shall be subject to disciplinary action for violations or noncompliance with the Code of Virginia or these regulations. Disciplinary action shall be in accordance with procedures prescribed by the Administrative Process Act (§ 9-6.14:1 et seq. of the Code of Virginia). The disciplinary action may include but is not limited to a letter of censure, fine, probation, suspension or revocation of the firm's private security services business license or his status as compliance agent.

PART IV. RENEWAL OF LICENSE.

Article 1. License Expiration, Renewal, Reinstatement.

§ 4.1. Renewal notification; invalid license.

A. The department will mail to the last known address of the licensee a renewal notification. Failure of the licensee to renew prior to the expiration of the license shall be the sole responsibility of the licensed firm's compliance agent.

B. A private security services business license not renewed on or before the expiration date of the license shall become null and void. Operating a private security services business without a valid private security services business license is a violation of § 9-183.3 of the Code of Virginia and these regulations.

§ 4.2. License expiration ; renewal; reinstatement .

A. All licenses issued to private security services

businesses shall be valid for a period not to exceed 12 months.

§ 4.3. License renewal; reinstatement.

A. B. Applications for license renewal must be received by the department at least 30 days prior to expiration. License renewal applications received by the department after the expiration date shall be subject to all applicable nonrefundable renewal fees plus reinstatement fees.

B. C. The department may renew the license for a period not to exceed 12 months from the expiration date of the license when the following are received by the department:

1. A properly completed renewal application;
2. A nonrefundable license renewal fee of \$250; and
3. Documentation that the firm has in force a policy of comprehensive general liability insurance or a surety bond in at least the amount required by § 3.2 of these regulations ; *documentation of continuous and current coverage of the surety bond or comprehensive general liability insurance must be filed and maintained with the department .*

C. D. Each compliance agent listed on the license renewal application shall have satisfactorily completed all applicable training requirements.

D. E. Each principal or compliance agent listed on the license renewal application shall be in good standing and free of disciplinary action in every jurisdiction where licensed or registered.

E. F. A renewal application received by the department within 180 days following the expiration date of the license shall be accompanied by a nonrefundable renewal fee of \$250 and a nonrefundable reinstatement fee of \$125.

F. G. No license shall be renewed or reinstated when the application and fee are received by the department more than 180 days following the expiration date of the license. After that date, the applicant shall meet all initial licensing requirements.

G. H. The department may deny renewal or reinstatement of a license for the same reason as it may refuse initial licensure or discipline a licensee.

PART V. REGISTRATION PROCEDURES AND REQUIREMENTS.

§ 5.1. Initial registration requirements.

Individuals seeking registration under § 9-183.3 of the Code of Virginia shall file an application furnished by the department which shall be accompanied by a

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nonrefundable application fee of \$76. Each applicant shall meet or exceed the following requirements prior to the issuance of a registration:

1. Be at least 18 years of age;
2. Disclose to the department his physical address (a post office box is not a physical address);
3. Submit one set of two completed fingerprint cards on forms provided by the department; and
4. Provide evidence of the successful completion of all initial training requirements for each registration category requested.

§ 5.2. Additional categories and training certifications.

Registered individuals seeking additional registration categories or training certifications shall file an application, furnished by the department, documenting that the following training requirements for the requested categories or training certifications have been met:

1. The nonrefundable fee for each filing is \$25.
2. Individuals may avoid paying a separate fee for additional categories or training certifications when evidence of satisfactory completion of the training requirements for each additional category or certification accompanies a renewal application for registration.

§ 5.3. Criminal history records search.

Upon receipt of an initial registration application, the department shall submit the fingerprints of the applicant to the Virginia State Police for the purpose of conducting a Virginia Criminal History Records search and a National Criminal Records search to determine whether the applicant has a record of conviction. Applicants submitting unclassifiable fingerprint cards shall be required to submit *his fingerprints* on new fingerprint cards along with a nonrefundable fee of \$41. However, no such fee shall be required if the rejected fingerprint cards are included and attached to the new fingerprint cards when resubmitted. In the case of registration renewal application for armored car personnel only, a Virginia Criminal History Records search and a national criminal records search to determine whether the applicant has a record of conviction shall be conducted.

§ 5.4. Temporary registration.

The department may issue a letter of temporary registration to individuals seeking registration under § 9-183.3 of the Code of Virginia for not more than 120 days while awaiting the results of the national fingerprint search, provided the applicant has met the conditions and requirements set forth in §§ 5.1 through 5.5 of these regulations, and the Virginia Criminal Records search

proved negative.

§ 5.5. Duties and responsibilities of registrant.

The registrant must at all times comply with the following:

1. Carry the *a valid* registration issued by the department at all times while on duty;
2. Perform those duties authorized by his registration only while employed by a licensed private security services business and only for the clients of the licensee. This shall not be construed to prohibit an individual who is registered as an armed security officer from being employed by a nonlicensee as provided for in § 9-183.2 of the Code of Virginia;
3. Carry or have immediate access to firearms while on duty only while possessing a valid firearms certification;
4. Carry a firearm concealed while on duty only with the expressed authorization of the licensed private security services business employing the registrant and only in compliance with § 18.2-308 of the Code of Virginia;
5. Transport, carry and utilize firearms while on duty only in a manner which does not endanger the public health, safety and welfare;
6. If authorized to make arrests, make arrests in full compliance with the law and using only the minimum force necessary to effect an arrest;
7. Engage in no conduct which through word, deed or appearance suggests that a registrant is a law-enforcement officer or other government official;
8. Display one's registration while on duty in response to the request of a law-enforcement officer ~~or other~~ *orderly person, department personnel or client*; however, this requirement shall not apply to armored car personnel *or personal protection specialists*;
9. Never perform any unlawful or negligent act resulting in a loss, injury or death to any person;
10. ~~Wear while on duty, Private security personnel are not required to wear a uniform while on duty; however, if wearing the military style or law-enforcement style uniform of a private security licensee which has while on duty, that uniform must have :~~
 - a. At least one insignia clearly identifying the name of the licensed firm employing the individual and, except armored car personnel, a name plate or tape bearing, as a minimum, the individual's last name and first and middle initials attached on the

outermost garment, except rainwear worn only to protect from inclement weather; and

b. No patch or other writing (i) containing the word "police" or any other words suggesting a law-enforcement officer; (ii) containing the word "officer" unless used in conjunction with the words "security"; or (iii) resembling any uniform patch or insignia of any duly constituted law-enforcement agency of this Commonwealth, its political subdivisions or of the federal government. This restriction shall not apply to individuals who are also duly sworn special police officers, to the extent that they may display words which accurately represent that distinction;

11. ~~Never use~~ Utilize a vehicle in the conduct of a private security services business ~~which uses or displays a flashing red, blue or amber light except when specifically authorized by the Code of Virginia only as provided in the Code of Virginia and these regulations ;~~

12. Never use or display the state seal of Virginia as a part of any logo, stationery, business card, badge, patch, insignia or other form of identification or advertisement;

13. Never display the uniform, badge or other insignia while not on duty;

14. During the course of any private investigation, never provide information obtained by any licensed firm and its employees to any person other than the client who employed the licensee to obtain that information, without the client's prior written consent. Provision of information in response to official requests from law-enforcement agencies, or from the department, shall not constitute a violation of these regulations. Provision of information to law-enforcement agencies pertinent to criminal activity or to planned criminal activity shall not constitute a violation of these regulations;

15. Inform the department in writing within 30 days of pleading guilty or nolo contendere or being convicted or found guilty of any felony or of a misdemeanor involving moral turpitude, sexual offense, drug offense, physical injury or property damage;

16. Inform the department in writing within 30 days after having been found guilty by any court or administrative body of competent jurisdiction to have violated the private security services business statutes or regulations of that jurisdiction, there being no appeal therefrom or the time for appeal having elapsed;

17. Acting as a registrant only in such a manner as to not endanger the public health, safety and welfare;

18. Engage in no unethical, fraudulent, or dishonest conduct;

19. Never represent as one's own a registration issued to another individual, or represent oneself as certified compliance agent of a licensee, training school, school director or instructor unless so certified by the department;

20. Never falsify, or aid and abet others in falsifying, training records for the purpose of obtaining a license, registration, unarmed security officer training certification, or certification as a compliance agent, training school, school director or instructor.

§ 5.6. Replacement photo identification.

Registered individuals seeking a replacement photo identification shall submit to the department:

1. A properly completed application;
2. Copy of training completion forms; and
3. A nonrefundable processing fee of \$15.

§ 5.7. Transfer of registration prohibited.

Each registration shall be issued to the individual named on the application and shall be valid only for use by that individual. No registration shall be utilized by any individual other than the individual named on the registration. No registration shall be transferred to another individual.

§ 5.8. Change of name or address.

Each registrant shall upon application, and at all times, keep the department informed of his physical address and shall report in writing to the department any change in his name or physical address no later than 15 days after the effective date of that change. A post office box is not a physical address.

§ 5.9. Basis for registration denial.

A. The department may deny registration to any person who:

1. Has been convicted in any jurisdiction of any felony or a misdemeanor involving moral turpitude, sexual offense, drug offense, property damage or physical injury. Any plea of nolo contendere shall be considered a conviction for purposes of these regulations. The record of a conviction, authenticated in such form as to be admissible in evidence under the laws of the jurisdiction where convicted, shall be admissible as prima facie evidence of such conviction; or
2. Has failed to maintain his license or registration in

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good standing in every jurisdiction where licensed or registered as private security personnel, or has been fined or had any private security license or registration denied upon initial application, suspended, revoked, surrendered, not renewed, or otherwise disciplined in connection with a disciplinary action prior to applying for registration or licensure in Virginia.

B. The department may deny registration to an individual for other just cause.

§ 5.10. Exemptions.

The ~~director~~ department may grant a temporary exemption from the requirement of registration for a period of not more than 30 days in a situation deemed an emergency by the department.

§ 5.11. Probation, suspension, and revocation.

The registrant shall be subject to disciplinary action for violations or noncompliance with the Code of Virginia and these regulations. Disciplinary action shall be in accordance with the Administrative Process Act (§ 9-6.14:1 et seq. of the Code of Virginia). The disciplinary action may include but is not limited to a letter of censure, fine, probation, suspension, or revocation of his registration.

§ ~~5.11:~~ 5.12. Registration expiration, renewal, reinstatement.

A. The department will mail a renewal notification to the last known address of the registrant. Failure of the registrant to renew prior to the expiration date of the registration shall be the sole responsibility of the individual registrant.

B. A private security services registration not renewed on or before the expiration date of the registration shall become null and void. Performing private security services duties without a valid private security services registration is a violation of the Code of Virginia.

C. 1. All registrations issued *on or after* July 1, 1993, shall be valid for a period not to exceed 12 months.

2. All registrations issued prior to July 1, 1993, shall expire on the expiration date of the registration.

D. 1. Applications for registration renewal must be received by the department at least 30 days prior to expiration. A registration renewal application received by the department after the expiration date shall be subject to all applicable nonrefundable renewal fees plus nonrefundable reinstatement fees.

2. The department may renew the registration for a period not to exceed 12 months from the expiration date of the expiring registration when the following are received by the department:

a. A properly completed renewal application;

b. Evidence of satisfactory completion of the applicable training or retraining requirements for each registration category and each training certification requested; and

c. A nonrefundable registration renewal fee of \$35.

E. 1. Registration renewal applications received within 180 days following the expiration date shall be accompanied by a nonrefundable renewal fee of \$35 and a nonrefundable reinstatement fee of \$17.50.

2. No registration shall be renewed or reinstated when the application for renewal and fee are received by the department after 180 days following the expiration date of the registration. After that date, the applicant shall meet then current initial registration requirements.

3. The date on which the application and fee are received by the department shall determine whether the registrant is eligible for renewal or reinstatement or is required to apply for initial registration.

4. The department may deny renewal or reinstatement of a registration for the same reason as it may refuse initial registration or discipline a registrant.

§ ~~5.12:~~ 5.13. Firearms certification, expiration, renewal.

A. An individual who has successfully completed the handgun training requirements may submit a properly completed application for registration with handgun certification.

1. Handgun certification will be documented on the registration and shall expire on the expiration date of the registration.

2. The department may grant a handgun certification upon receipt of the following:

a. A properly completed application; and

b. Documentary evidence of satisfactory completion of the applicable handgun training requirements.

B. An individual who has successfully met the handgun training requirements, and has successfully completed the shotgun training requirement, may submit a properly completed application for registration with shotgun certification.

1. Shotgun certification will be documented on the registration and shall expire on the expiration date of the registration.

2. The department may grant a shotgun certification upon receipt of the following:

- a. A properly completed application; and
- b. Documentary evidence of satisfactory completion of the applicable shotgun training requirements.

C. All handgun and shotgun certifications shall be issued for a period not to exceed 12 months and shall become null and void on the expiration date of the registration. "Firearms endorsements" issued prior to July 1, 1993, shall become null and void on the expiration date of the endorsement.

D. The department may renew handgun and shotgun certifications for a period not to exceed 12 months from the expiration date of the registration when the following are received by the department:

1. A properly completed registration renewal application;
2. Evidence of satisfactory completion of all applicable training, firearms retraining and in-service training requirements; and
3. A nonrefundable fee of \$35. (One \$35 fee for registration renewal includes firearms certifications if all requirements have been met).

E. The department may deny renewal of a firearms certification for the same reason as it may refuse initial firearms certification or discipline a registrant.

PART VI. UNARMED SECURITY OFFICER TRAINING CERTIFICATION PROCEDURES AND REQUIREMENTS.

§ 6.1. Training certification.

A. Each person employed or utilized as an unarmed security officer shall successfully complete the compulsory minimum training standards for unarmed security officers and make application to the department for the issuance of an unarmed security officer training certification, except that such persons may be employed for not more than 90 days while completing the compulsory minimum training standards.

B. Individuals seeking unarmed security officer training certification shall file an application provided by the department which shall be accompanied by a nonrefundable processing fee of \$15. Each applicant shall meet or exceed the following requirements prior to issuance of an unarmed security officer training certification:

1. Be at least 18 years of age;
2. Disclose to the department a physical address (a post office box is not a physical address);

3. Provide documentary evidence of compliance with the initial unarmed security officer training requirement and, if appropriate, in-service training requirements for unarmed security officers; and

4. Have the compliance agent of his employer attest that documentary evidence exists that an investigation to determine suitability of the applicant has been conducted and reviewed as required by the Code of Virginia.

C. Each person employed or utilized as an unarmed security officer on or after July 13, 1994, shall comply with the unarmed security officer training certification requirements.

§ 6.2. Criminal history records search.

Upon hiring a person to be employed as an unarmed security officer, the compliance agent of the business shall submit *on the first day of employment*, VSP Form 167 signed by the applicant to the Virginia State Police for the purpose of conducting a Virginia Criminal History Records search to determine whether the applicant has a record of conviction. *An individual may not be employed for more than 30 days without documentation of the completion of the Virginia Criminal History Records search.*

§ 6.3. Duties and responsibilities.

The unarmed security officer must at all times comply with the following:

1. Carry a *valid* unarmed security officer training certification issued by the department card at all times while on duty;
2. Perform those duties authorized by these regulations only while employed by a licensed private security services business and only for the clients of the licensee. This shall not be construed to prohibit an individual who is employed as an unarmed security officer from being employed by a nonlicensee as provided for in § 9-183.2 of the Code of Virginia;
3. Never carry or have immediate access to firearms while on duty;
4. Engage in no conduct which through word, deed or appearance suggests that an unarmed security officer is a law-enforcement officer or other government official;
5. Display one's certification while on duty in response to the request of a law-enforcement officer or other orderly person, department personnel or client;
6. Never perform any unlawful or negligent act resulting in a loss, injury or death to any person;
7. Wear while on duty, *Private security personnel are*

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not required to wear a uniform while on duty; however, if wearing the law-enforcement style or military style uniform of a private security licensee ~~which has while on duty, that uniform must have :~~

a. At least one insignia clearly identifying the name of the licensed firm employing the individual and a name plate or tape bearing, as a minimum, the individual's last name and first and middle initials attached on the outermost garment, except rainwear worn only to protect from inclement weather; and

b. No patch or other writing (i) containing the word "police" or any other words suggesting a law-enforcement officer; (ii) containing the word "officer" unless used in conjunction with the word "security"; or (iii) resembling any uniform patch or insignia of any duly constituted law-enforcement agency of this Commonwealth, its political subdivisions or of the federal government. This restriction shall not apply to individuals who are also duly sworn special police officers, to the extent that they may display words which accurately represent that distinction;

8. ~~Never use Utilize~~ a vehicle in the conduct of a private security services business ~~which uses or displays a flashing red, blue or amber light except when specifically authorized by the Code of Virginia only as provided in the Code of Virginia and these regulations ;~~

9. Never use or display the state seal of Virginia as a part of any logo, stationery, business card, badge, patch, insignia or other form of identification or advertisement;

10. Never display the uniform, badge or other insignia while not on duty;

11. Inform the department in writing within 30 days of pleading guilty or nolo contendere or being convicted or found guilty of any felony or of a misdemeanor involving moral turpitude, sexual offense, drug offense, physical injury or property damage;

12. Inform the department in writing within 30 days after having been found guilty by any court or administrative body of competent jurisdiction to have violated the private security services business statutes or regulations of that jurisdiction, there being no appeal therefrom or the time for appeal having elapsed;

13. Acting as an unarmed security officer only in such a manner as to not endanger the public health, safety and welfare;

14. Engage in no unethical, fraudulent, or dishonest conduct;

15. Never represent as one's own certification issued to another individual, or representing oneself as a certified compliance agent of a licensee, school director or instructor unless certified as such by this department;

16. Never falsify, or aid and abet others in falsifying, training records for the purpose of obtaining a license, registration, unarmed security officer training certification, or certification as a compliance agent, training school, school director or instructor.

§ 6.4. Change of name or address.

Each unarmed security officer shall upon application, and at all times, keep the department informed of his physical address and shall report in writing to the department any change in his name or physical address no later than 15 days after the effective date of that change. A post office box is not a physical address.

§ 6.5. Transfer of certification prohibited.

Each unarmed security officer training certification shall be issued to the individual named on the application and shall be valid only for use by that individual. No unarmed security officer training certification shall be utilized by any individual other than the individual named on the certification. No unarmed security officer training certification shall be transferred to another individual.

§ 6.6. Replacement photo identification.

Unarmed security officers seeking a replacement photo identification shall submit to the department:

1. A properly completed application; and
2. A nonrefundable processing fee of \$15.

§ 6.7. Training certification denial.

The department may deny an unarmed security officer training certification to any person who has been convicted in any jurisdiction of any felony or a misdemeanor involving moral turpitude, sexual offense, drug offense, property damage or physical injury. Any plea of nolo contendere shall be considered a conviction for purposes of these regulations. The record of a conviction, authenticated in such form as to be admissible in evidence under the laws of the jurisdiction where convicted, shall be prima facie evidence of such conviction. The department may deny certification for other just cause.

§ 6.8. Probation, suspension, and revocation.

The certified unarmed security officer shall be subject to disciplinary action for violations or noncompliance with the Code of Virginia and these regulations. Disciplinary action shall be in accordance with the Administrative Process Act (§ 9-6.14:1 et seq. of the Code of Virginia).

The disciplinary action may include but is not limited to a letter of censure, fine, probation, suspension, or revocation of his certification.

§ 6.8: 6.9. Certification expiration, renewal, reinstatement.

A. The department will mail a renewal notification to the last known address of the individual. Failure of the individual to renew prior to the expiration date of the unarmed security officer training certification shall be the sole responsibility of the individual.

B. An unarmed security officer training certification not renewed on or before the expiration date of the certificate shall become null and void. Performing private security services duties *beyond the initial 90 days of employment* without a valid unarmed security officer training certification is a violation of the Code of Virginia and these regulations.

C. An unarmed security officer training certification shall be valid for a period not to exceed 24 months from the date of issue. All such training certifications shall expire on the expiration date of the unarmed security officer training certification.

D. 1. An application for unarmed security officer training certification renewal must be received by the department at least 30 days prior to expiration. Unarmed security officer training certification applications received by the department after the expiration date shall be subject to all applicable nonrefundable renewal fees plus reinstatement fees.

2. The department may renew the unarmed security officer training certification for a period not to exceed 24 months from the expiration date of the unarmed security officer training certification when the following are received by the department:

- a. A properly completed renewal application;
- b. Evidence of satisfactory completion of the in-service training requirements; and
- c. A nonrefundable renewal fee of \$15.

E. 1. Renewal applications received within 180 days following the expiration date shall be accompanied by a nonrefundable renewal fee of \$15 and a nonrefundable reinstatement fee of \$7.50.

2. No unarmed security officer training certification shall be renewed or reinstated when the application for renewal and fee are received by the department after 180 days following the expiration date of the unarmed security officer training certification. After that date, the applicant shall meet then current initial unarmed security officer training certification requirements.

3. The date on which the application and fee are received by the department shall determine whether the individual is eligible for renewal or reinstatement or is required to apply for initial unarmed security officer training certification.

4. The department may deny renewal or reinstatement of an unarmed security officer training certification for the same reason as it may refuse the initial certification or discipline an unarmed security officer.

PART VII.
COMPULSORY MINIMUM TRAINING STANDARDS
FOR PRIVATE SECURITY SERVICES BUSINESS
PERSONNEL.

Article I:
Applicability and Scope.

§ 7.1. Entry level training.

Each person employed by a private security services business or applying to the department for registration as an armed security officer/courier, personal protection specialist, armored car personnel, guard dog handler, private investigator, alarm respondent, central station dispatcher, electronic security sales representative, or electronic security technician as defined by § 9-183.1 of the Code of Virginia, or applying to the department for training certification as an unarmed security officer as required by § 9-183.3 of the Code of Virginia, or for certification as a compliance agent as required by § 9-183.3 of the Code of Virginia, who has not met the compulsory minimum training standards prior to July 13, 1994, must meet the compulsory minimum training standards herein established, unless provided for otherwise in accordance with §§ 7.2 and 7.3 of these regulations.

§ 7.2. Exemptions.

Persons who meet the statutory requirements as set forth in § 9-182 of the Code of Virginia and who have completed a law-enforcement entry level training course may apply for a partial exemption from the mandatory training. Individuals requesting such exemption shall file an application furnished by the department. The nonrefundable application fee for each filing is \$35. The department may issue such partial exemption, on the basis of individual qualifications as supported by required documentation. The department shall not issue more than a partial exemption to those persons who have remained out of law-enforcement employment in excess of 24 months. Those applying for and receiving exemptions must also comply with all firearms requirements, if applicable, and all regulations promulgated by the board. Each person receiving a partial exemption must apply to the department for registration within 12 months from date of issuance, otherwise the partial exemption shall become null and void.

§ 7.3. Credit for approved firearms training.

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The department may authorize credit for firearms training received at a department approved school which meets or exceeds the compulsory minimum training standards required for private security services business personnel, provided that such training has been successfully completed within 12 months of the date of application. Applicants requesting credit for firearms training shall file an application furnished by the department. The nonrefundable application fee for each filing is \$25.

§ 7.4. Firearms training.

Firearms certification is required for all private security services business personnel prior to carrying or having immediate access to a firearm in the performance of duty.

§ 7.5. In-service training.

Each person registered with the department as an armed security officer/courier, personal protection specialist, armored car personnel, guard dog handler, private investigator, alarm respondent, central station dispatcher, electronic security sales representative, electronic security technician, or applying to the department for training certification as an unarmed security officer, or certified by the department to act as a compliance agent, shall complete the compulsory in-service training standard once during each 24-month period of registration or certification as determined by the department. *Compliance agent in-service training is required within 24 months of entry-level training, or the last completed in-service training.*

1. Each person registered as armed security officer/courier, personal protection specialist, guard dog handler, armored car personnel, private investigator, alarm respondent, central station dispatcher, electronic security sales representative, and electronic security technician shall complete applicable in-service training within each 24-month period of registration.

2. Each person employed or utilized as an unarmed security officer shall complete applicable in-service training within each 24-month period of certification.

3. Each person certified as a compliance agent shall complete compliance agent in-service training within each 24-month period of certification.

§ 7.6. Instructor recertification.

Each person certified as an instructor shall complete recertification training within each 36-month period of initial certification date.

§ 7.7. Compulsory minimum entry level training by category.

Total hours do not include time for examinations,

practical exercises and range qualification. Refer to § 7.9 for the minimum training requirements for each category.

Unarmed security officer – 16 hours

Armed security officer/courier – 24 hours

Armored car personnel – 20 hours

Guard dog handler – 28 hours

Private investigator – 60 hours

Personal protection specialist – 68 hours

Unarmed alarm respondent – 16 hours

Armed alarm respondent – 24 hours

Central station dispatcher – 8 hours

Electronic security sales representative – 8 hours

Electronic security technician – 14 hours

Compliance agent – 6 hours

§ 7.8. Compulsory minimum in-service training by category.

Total hours do not include time for examinations.

Refer to § 7.10 for the minimum in-service training requirements for each category.

Unarmed security officer – 4 hours

Armed security officer/courier – 4 hours

Armored car personnel – 4 hours

Guard dog handler – 8 hours

Private investigator – 8 hours

Personal protection specialist – 16 hours

Unarmed alarm respondent – 4 hours

Armed alarm respondent – 4 hours

Central station dispatcher – 4 hours

Electronic security sales representative – 4 hours

Electronic security technician – 12 hours

Compliance agent – 4 hours

§ 7.9. Minimum entry level training requirements.

A. The entry level curriculum for unarmed security

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officer, armed security officer/courier, and guard dog handler, *unarmed alarm respondent and armed alarm respondent* sets forth the following areas identified as:

Core Subjects	Hours
Administration and security orientation/regulations .	4
Legal authority and arrest authority	4
Emergency and defensive procedures	8
Written examination	
Total hours (excluding exam)	16
B. Armed security officer/courier.	16

In addition to the successful completion of the core subjects curriculum (§ 7.9 A), each armed security officer/courier must also comply with firearms training requirements. (Firearms certification is required for all private security services business personnel prior to carrying or having immediate access to a firearm in the performance of duty.)

1. Handgun classroom training (refer to § 9.2) - 8 hours
2. Shotgun classroom instruction, if applicable (refer to § 9.3) - ~~1 hour~~ 2 hours
3. Written firearms examination
4. Range qualification. No minimum hours required (refer to § 9.3). Each person who carries or has immediate access to firearms in the performance of duty shall qualify with each type and ~~calibre~~ caliber of firearm to which he has access.

Total hours (excluding examination, shotgun classroom instruction and range qualification - 24 hours

C. Armored car personnel.

1. Armored car orientation/state regulations - 3 hours
2. Armored car procedures - 9 hours
3. Written examination
4. Firearms training (§ 7.9 B) - 8 hours

Total hours (excluding examinations and range qualification) - 20 hours

D. Guard dog handler.

In addition to the successful completion of the core subjects curriculum (§ 7.9 A), each guard dog handler

must also comply with the following requirements:

Basic obedience retraining - 6 hours

Canine patrol techniques - 6 hours

Written examination

Total hours (excluding examinations) - 28 hours

1. Prerequisites for guard dog handler entry-level (official documentation required):

- a. Successful completion of the core subjects curriculum (§ 7.9 A) - 16 hours
- b. Successful completion of basic obedience training

2. Following successful completion of the above prerequisites, each guard dog handler must also comply with the following requirements:

- a. Demonstration of proficiency. The student must demonstrate his proficiency in the handling of a security canine to satisfy the minimum standards - 2 hours

Evaluation by a certified private security guard dog handler instructor

Basic obedience retraining

- b. Guard dog handler orientation/legal authority - 4 hours

c. Canine patrol techniques - 6 hours

d. Written examination

Total hours (excluding examinations) - 28 hours

E. Private investigator.

1. Investigator orientation/regulations - 8 hours
 2. Collecting and reporting information - 6 hours
 3. General investigative techniques - 20 hours
 4. Interviewing techniques - 8 hours
 5. Criminal law, procedure and rules of evidence - 8 hours
 6. Civil law, procedure and rules of evidence - 10 hours
- Collecting and reporting information - 6 hours
7. Written comprehensive examination

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8. Three practical field exercises

Total hours in classroom (excluding written examination and practical exercises) – 60 hours

F. Personal protection specialist.

Each personal protection specialist student must also comply with the following requirements:

1. Personal protection orientation – 4 hours
2. Assessment of threat and protectee vulnerability – 8 hours
3. Legal authority and issues – 16 hours
4. Protective detail operations – 28 hours
5. Emergency procedures – 12 hours
 - a. Emergency first aid / CPR (8 hours)
 - b. Defensive preparedness
 - c. Emergency relocation
6. Written examination

Total hours (excluding examination) – 68 hours

G. Unarmed alarm respondent.

Each unarmed alarm respondent student must successfully complete the core subjects curriculum (§ 7.9 A). – 16 hours

H. Armed alarm respondent.

In addition to the successful completion of the core subjects curriculum (§ 7.9 A), each armed alarm respondent must also comply with firearms training requirements. Firearms certification is required for all private security services business personnel prior to carrying or having immediate access to a firearm in the performance of duty.

1. Handgun classroom instruction (refer to § 9.2 B) – 8 hours
2. Shotgun classroom instruction (if applicable) (refer to § 9.3 C) – 2 hours
3. Written firearms examination
4. Range qualification. No minimum hours required. Each person who carries or has immediate access to firearms in the performance of duty shall qualify with each type and caliber of firearm to which he has access.

Total hours (excluding examination, shotgun classroom instruction, and qualification on the range) – 24 hours

I. Central station dispatcher.

1. Electronic security subjects – 4 hours
2. Central station dispatcher subjects – 4 hours
 - a. Duties and responsibilities
 - b. Communications skills
 - c. Emergency procedures
 - d. False alarm prevention

Total hours – 8 hours

J. Electronic security sales representative.

1. Electronic security subjects (refer to § 7.9 I) – 4 hours
2. Electronic security sales representative subjects – 4 hours
 - a. Duties and responsibilities
 - b. System design/components
 - c. False alarm prevention

Total hours – 8 hours

K. Electronic security technician.

Each electronic security technician student must also comply with the following requirements:

1. Electronic security subjects (refer to § 7.9 I) – 4 hours
2. Electronic security technician subjects – 10 hours
 - a. Duties and responsibilities
 - b. Electronics
 - c. Control panels
 - d. Protection devices and application
 - e. Test equipment
 - f. Power and grounding
 - g. National electrical code
 - h. Job safety

i. False alarm management

Total hours – 14 hours

F. L. Compliance agent.

1. Industry overview and responsibilities: regulations review, business practices, ethical standards, records requirements and other related issues – 6 hours

2. Written examination

Total hours (excluding written examination) – 6 hours

G. M. Firearms training.

Firearms certification is required for all private security services business personnel prior to carrying or having immediate access to a firearm in the performance of duty. *Firearms training must be completed within 12 months immediately preceding submission of an application. Firearms training completed longer than 12 months prior to application shall not be valid.*

1. Handgun classroom training (refer to § 9.2) – 8 hours

2. Shotgun classroom instruction, if applicable (refer to § 9.3) – ~~1 hour~~ 2 hours

3. Written firearms examination (refer to § 9.3).

4. Range qualification. No minimum hours required. Each person who carries or has immediate access to firearms in the performance of duty shall qualify with each type and calibre caliber of firearm to which he has access.

Total hours do not include examination shotgun classroom instruction or range qualification – 8 hours

N. Personal protection specialist advanced firearms training.

In addition to the successful completion of the personal protection specialist entry-level curriculum (§ 7.9 F), each armed personal protection specialist student must also comply with the following:

1. Prerequisite for personal protection specialist advanced firearms training:

(official documentation required)

Successful completion of handgun classroom instruction (refer to § 9.2 B) – 8 hours

2. Personal protection specialist advanced firearms training – 24 hours

a. Weapon selection and nomenclature

b. Safety and functioning

c. Fundamentals of marksmanship

d. Decision making for the personal protection specialist

e. Firearms skill development

f. Virginia private security modified course of fire for handguns

g. Personal protection specialist advanced firearms course of fire

h. Written examination

Each private security employee who carries or has immediate access to firearms in the performance of duty shall qualify with each type and caliber of firearm to which he has access.

Total hours (excluding written examination) – 32 hours

§ 7.10. Compulsory minimum in-service training requirements.

A. Unarmed security officer/armed security officer/courier /unarmed alarm respondent/armed alarm respondent .

Legal authority/regulations review – 2 hours

Job related training – 2 hours

Total – 4 hours

B. Armored car personnel.

Statutory authorization/ state regulations review – 2 hours

Armored car procedures – 2 hours

Total – 4 hours

C. Guard dog handler.

Basic obedience evaluation and retraining – 2 hours

Legal authority/regulations review – 2 hours

Job related training – 2 hours

Basic obedience retraining – 2 hours

Canine patrol techniques – 2 hours

Total – 8 hours

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D. Private investigator.

Legal authority/issues (civil and criminal)/regulations review – 4 hours

Investigative procedures – 4 hours

Total – 8 hours

E. Personal protection specialist – 16 hours

F. Central station dispatcher – 4 hours

G. Electronic security sales representative – 4 hours

H. Electronic security technician – 12 hours

E. I. Compliance agent.

Industry overview and responsibilities, regulations review, business practices, ethical standards, records requirements, and other related issues – 4 hours

§ 7.11. Firearms retraining.

A. All armed private security services business personnel must satisfactorily complete two hours of firearms classroom retraining, range training, and requalify as prescribed in §§ 9.2 B and 9.3, if applicable, ~~within each calendar year during each 12 months of registration~~. Certified schools providing firearms retraining must meet the requirements of Part VIII of these regulations.

B. Each armed registrant who has complied with the initial firearms training requirement shall comply annually with firearms retraining ~~prior to~~ *within the 12-month period preceding the expiration date of his registration. Firearms training completed longer than 12 months prior to the expiration date of his registration is not valid.*

C. ~~Firearms (handgun and shotgun) classroom retraining – 2 hours~~

C. Firearms classroom retraining.

Handgun classroom retraining – 2 hours

Shotgun classroom retraining – 1 hour

Range qualification (no minimum ~~hour~~ hours required).

Total hours (excluding range qualification and shotgun classroom training) – 2 hours

§ 7.12. Personal protection specialist advanced firearms retraining – 8 hours

A. Each armed personal protection specialist registrant must satisfactorily complete eight hours of personal protection specialist advanced firearms classroom training,

range training, and requalify, if applicable. Certified schools providing firearms retraining must meet the requirements of Part VIII of these regulations.

B. Each armed personal protection specialist registrant who has complied with the initial personal protection specialist advanced firearms training requirement, shall comply annually with firearms retraining within the 12-month period preceding the expiration date of his registration. Firearms training completed longer than 12 months prior to the expiration date of his registration is not valid.

§ 7.13. Guard dog handler basic obedience evaluation and retraining – 2 hours

Each guard dog handler registrant shall comply annually with the requirement for basic obedience evaluation and retraining.

§ ~~7.12~~ 7.14. Instructor recertification training .

A. Regulations review, legal issues, ethical standards, records requirements and other related topics – ~~3~~ 2 hours

B. Techniques of instruction delivery – ~~5~~ 6 hours

Including practical exercises.

Total hours (excluding testing) – 8 hours

PART VIII.

PRIVATE SECURITY SERVICES TRAINING SCHOOLS.

Article 1.

School Certification.

§ 8.1. ~~Application for certification; fee; Initial requirements for the certification of a private security services training school.~~

In accordance with § 9-182 of the Code of Virginia, the department may certify those schools which on the basis of curricula, instructors and facilities, provide training which meets the compulsory minimum training standards. Each person seeking to ~~establish a certified~~ certify a private security services training school shall file an application, provided by the department, ~~which shall be~~ accompanied by a nonrefundable fee of \$500. ~~The department may certify such schools for a period not to exceed 12 months.~~ Each principal of the business entity applying for certification as a private security services training school must be listed on the application and is responsible for the school's adherence to the Code of Virginia and these regulations. Each person listed on the application shall complete a supplemental fingerprint processing application and submit his fingerprints on one completed set of two fingerprint cards along with a nonrefundable fee of \$41; however, a maximum of two sets of fingerprint cards may accompany the application at no additional cost. Certifications shall be issued for a

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period not to exceed 12 months. All forms shall be completed in full compliance with the instructions provided by the department. Applicants shall meet or exceed all of the requirements contained in this part prior to the issuance of a training school certification:

§ 8.2. Certification requirements; designation of school director; school director duties and responsibilities; retention and replacement of school director.

A. Each person seeking to establish a certified private security services training school shall designate a school director. The school director shall be an individual, who is not designated as school director for any other certified private security services training school, and shall meet the following requirements: possess current certification as a private security instructor.

1. Possess current certification as a private security instructor; and
2. Successful completion of compulsory minimum training requirements for each category of training for which school certification is requested.

B. The certified school director shall at all times comply with the following:

1. Ensure that the certified training school is in full compliance with the Code of Virginia and these regulations;
2. Ensure that all applications for session approval sessions conducted meet the requirements for mandated training;
3. Ensure that all instructors of the certified training school have been certified by the department as private security instructors and instruct in accordance with the current Code of Virginia and these regulations;
4. Ensure that all training completion rosters are filed with the department within seven business days of the training completion date;
5. Ensure the maintenance of training, employment and payroll records which document compliance with the Code of Virginia and these regulations.

C. 1. Each certified training school shall maintain an individual as school director who has met the requirements of these regulations and has been certified by the department.

2. Each training school shall notify the department in writing within 10 calendar days of the termination of employment of a certified school director.
3. Within 90 days of termination of the school's certified director, the school shall submit, on a form

provided by the department, the name of a new school director who has met the requirements of these regulations.

§ 8.3. Certification authority.

The department, in accordance with § 9-182 of the Code of Virginia, may certify those schools, which on the basis of curricula, instructors and facilities provide training that meets the compulsory minimum training standards. A denial may be appealed in accordance with the procedures prescribed by the Administrative Process Act.

§ 8.3. Basis for denial of certification.

A. The department may deny certification to a school in which any training director or principal has been convicted in any jurisdiction of any felony or of a misdemeanor involving moral turpitude, sexual offense, drug offense, physical injury or property damage. Any plea of nolo contendere shall be considered a conviction for the purposes of these regulations. The record of a conviction, authenticated in such form as to be admissible in evidence under the laws of the jurisdiction where convicted, shall be admissible as prima facie evidence of such conviction.

B. The department may deny certification to a school in which any training director or principal has not maintained good standing in every jurisdiction where licensed, registered or certified, or has had his license, registration, or certification denied upon initial application, suspended, revoked, surrendered, not renewed, or otherwise disciplined in connection with a disciplinary action prior to applying for certification in Virginia.

§ 8.4. Physical address required.

Each person applying to become a certified private security services training school shall provide the department with its physical address in Virginia at which records required to be maintained by the Code of Virginia and these regulations are kept and available for inspection by the department. A post office box is not considered a physical address.

§ 8.5. Authority to inspect.

Each certified training school shall permit the department to inspect, review and copy those training, employment and payroll records which document compliance with the Code of Virginia and these regulations.

§ 8.6. Display of certificate.

The private security services training school certificate shall be prominently displayed for public inspection at all times.

§ 8.7. Change of ownership or entity.

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A. Each certified training school shall report in writing to the department any change in its ownership or principals which does not result in the creation of a new legal entity. Such written report shall be received by the department within 30 days after the occurrence of such change.

B. A new training school certification is required whenever there is any change in the ownership or manner of organization of the certified training school entity which results in the creation of a new legal entity.

§ 8.8. Change of name or address.

Each training school shall upon application, and at all times, keep the department informed of its physical address, and shall report in writing to the department any change in its name or physical address no later than 15 days after the effective date of that change. Name change reports shall be accompanied by certified true copies of the documents which establish the name change. A post office box is not a physical address.

§ 8.9. Transfer of certification prohibited.

Each training school certification shall be issued to the legal business entity named on the application, whether it be a sole proprietorship, partnership, corporation, or other legal entity, and shall be valid only for the legal entity named on the certification. No certification shall be assigned or otherwise transferred to another legal entity.

§ 8.10. School expiration, renewal, reinstatement.

A. The department will mail a renewal application to the last known address of the certified school director. Failure of the certified school director to renew certification prior to the expiration date of the certification shall not be the responsibility of the department.

B. A private security training school not renewed on or before the expiration date of the certification shall become null and void. Operating a training school without valid certification is a violation of the Code of Virginia and these regulations.

C. All certifications granted to private security services training schools shall be valid for a period not to exceed 12 months.

D. Applications for renewal must be received 30 days prior to expiration. School renewal applications received by the department after the expiration date shall be subject to all applicable nonrefundable renewal fees plus nonrefundable reinstatement fees.

1. The department may renew the certification of a training school for a period not to exceed 12 months when the following are received by the department:

a. A properly completed renewal application; and

b. A nonrefundable renewal fee of \$250.

2. The certified school director and each certified instructor listed on the school renewal application must have satisfactorily completed all applicable instructor training requirements.

3. Each certified director, principal or certified instructor listed on the school renewal application shall be in good standing and free of disciplinary action in every jurisdiction where licensed or certified.

E. 1. A renewal application received by the department within 180 days following the expiration date shall be accompanied by a nonrefundable renewal fee of \$250 and nonrefundable reinstatement fee of \$125.

2. No training school shall be renewed or reinstated when the renewal application and fee are received by the department after 180 days following the expiration date of the approval. After that date, the applicant shall meet then current initial school certification requirements.

3. The date on which the application and fee are received by the department shall determine whether the applicant is eligible for renewal or reinstatement or is required to apply for initial certification as a private security training school.

§ 8.11. Exemptions.

The department may grant a temporary exemption from the requirement for certification of a training school for a period of not more than 30 days in a situation deemed an emergency by the department.

§ ~~8.11~~ 8.12. Suspension and revocation.

The certified private security services training school director and the certified training school shall be subject to disciplinary action for violations or noncompliance with the Code of Virginia or these regulations. Disciplinary action shall be in accordance with procedures prescribed by the Administrative Process Act. The disciplinary action may include, but is not limited to, a letter of censure, fine, suspension, or revocation of the school's certification status or his certification as school director.

Article 2. Instructor Certification.

~~§ 8.12. Certified instructors required; qualifications; criminal history records search; denial or renewal of certification; credit for hours.~~

§ 8.13. Instructor qualifications.

A. Instructors desiring to instruct in a certified training

school shall submit an application for instructor certification. The applicant must provide documentation of previous work experience, instructor experience, training and education for those subjects in which certification is requested. The department will evaluate qualifications based upon the justification provided. In addition, all instructor applicants shall meet the following requirements and provide documentation thereof:

1. Have a minimum of three years management or supervisory experience with a private security services business or with any federal, military police, state, county or municipal law-enforcement agency, or in a related field; or have a minimum of one year experience as an instructor or teacher at an accredited educational institution or agency in the subject matter for which certification is requested, or in a related field;

2. Have a high school diploma or equivalent (GED);

3. Successful completion of an instructor development program, within the three years immediately preceding the date of the application, that meets or exceeds standards established by the department; or successful completion of an instructor development program longer than three years prior to the date of application, and has provided instruction during the three years immediately preceding, or has provided instruction in a related field at an institution of higher learning;

4. Submit his fingerprints on one set of two completed fingerprint cards on forms provided by the department; and

5. Submit a properly completed instructor application and a nonrefundable application fee of \$91.

B. In addition to the instructor qualification requirements described in subsection A of this section, each firearms instructor must have completed a firearms instructors school specifically designed for law-enforcement or private security personnel. Each firearms instructor candidate must provide documentation of range qualification with:

1. A revolver;

2. A semi-automatic handgun; and

3. A shotgun.

The school firearms instructor training must have been completed within the three years immediately preceding the date of the instructor application; or in the event that the school completion occurred prior to three years, the applicant shall have provided firearms instruction during the three years immediately preceding.

C. In addition to the requirements of subsection A of

this section, each candidate for certification as a guard dog handler instructor, personal protection specialist instructor, and electronic security instructor shall submit to the department official documentation of qualifications in each specified area.

§ 8.14. Criminal history records search.

Upon receipt of an initial application for instructor certification, the department shall submit the fingerprints of the applicant to the Virginia State Police for the purpose of conducting a Virginia Criminal History Records search and a national criminal records search to determine whether the applicant has a record of conviction. Applicants submitting unclassifiable fingerprint cards shall be required to submit their fingerprints on new fingerprint cards along with a nonrefundable fee of \$41. However, no such fee shall be required if the rejected fingerprint cards are included and attached to the new fingerprint cards when resubmitted.

§ 8.15. Denial of instructor certification.

A. The department may deny certification to an instructor who has been convicted in any jurisdiction of any felony or of a misdemeanor involving moral turpitude, sexual offense, drug offense, physical injury or property damage. Any plea of nolo contendere shall be considered a conviction for the purposes of these regulations. The record of a conviction, authenticated in such form as to be admissible in evidence under the laws of the jurisdiction where convicted, shall be admissible as prima facie evidence of such conviction.

B. The department may deny certification to any instructor who has not maintained good standing in every jurisdiction where licensed or registered or has had his license or registration denied upon initial application, suspended, revoked, surrendered, not renewed, or otherwise disciplined in connection with a disciplinary action prior to applying for certification in Virginia.

E. The department may renew the certification of an instructor for a period not to exceed 12 months when the following are received by the department:

1. A properly completed renewal application;

2. Documentation of satisfactory completion of applicable requirements; and

3. A nonrefundable renewal fee of \$10.

§ 8.16. Exemptions.

The department may grant a temporary exemption from the requirement for certification for a period of not more than 30 days in a situation deemed an emergency by the department.

§ 8.17. Probation, suspension, and revocation.

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The certified private security services instructor shall be subject to disciplinary action for violation or noncompliance with the Code of Virginia and these regulations. Disciplinary action shall be in accordance with the Administrative Process Act (§ 9-6.14:1 et seq. of the Code of Virginia). The disciplinary action may include, but is not limited to, a letter of censure, fine, probation, suspension or revocation of his certification as an instructor.

F. § 8.18. Renewal of instructor certification.

A. The department may deny renewal of instructor certification for the same reason as it may refuse initial certification or discipline an instructor.

G. B. Instructors certified to teach mandatory training classes, except firearms training, may receive credit for hours towards in-service training requirements for classes in which they provide instruction, upon submission of proper documentation and department approval.

H. C. Each person certified as a private security instructor shall complete the instructor recertification requirements by December 31 of the third calendar year following initial certification and every third calendar year thereafter.

All private security instructors certified prior to June 30, 1994, must comply with this requirement by December 31, 1997.

§ 8.19. Certification expiration, renewal, reinstatement.

A. The department will mail to the last known address of the instructor a renewal notification. Failure of the instructor to renew prior to the expiration of the certification shall be the sole responsibility of the instructor.

A private security services instructor certification not renewed on or before the expiration date shall become null and void. Operating as a private security services instructor without a valid private security services instructor certification is a violation of the Code of Virginia and these regulations.

B. All certifications issued to private security services instructor shall be valid for a period not to exceed 12 months.

C. 1. Applications for instructor certification must be received by the department at least 30 days prior to expiration. Renewal applications received by the department after the expiration date shall be subject to all applicable nonrefundable renewal fees plus reinstatement fees.

2. The department may renew the instructor certification for a period not to exceed 12 months from the expiration date of the certification when the

following are received by the department:

- a. A properly completed renewal application;
- b. A nonrefundable renewal fee of \$10; and
- c. Documentation that the applicant has met the applicable recertification training standards.

3. Each instructor must have satisfactorily completed all applicable training requirements.

4. Each instructor shall be in good standing and free of disciplinary action in every jurisdiction where licensed, registered or certified.

5. A renewal application received by the department within 180 days following the expiration date of the certification shall be accompanied by a nonrefundable renewal fee of \$10 and a nonrefundable reinstatement fee of \$5.00.

6. No instructor certification shall be renewed or reinstated when the application and fee are received by the department more than 180 days following the expiration date of the certification. After that date, the applicant shall meet all initial instructor certification requirements.

7. The department may deny renewal or reinstatement of an instructor for the same reason as it may refuse initial certification or discipline a licensee.

PART IX. FIREARMS TRAINING.

§ 9.1. Firearms training requirements.

A. Private security services business personnel who apply for armed registration shall be required to meet the provisions of § 9.2 and, if applicable, § 9.3.

B. Every student must qualify with each type and calibre caliber of firearm he will have access to while on duty.

§ 9.2. Handgun training.

A. The eight hours of classroom training will emphasize but not be limited to:

1. The proper care of the weapon;
2. Civil liability of the use of firearms;
3. Criminal liability of the use of firearms;
4. Weapons retention;
4. 5. Deadly force;

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- 5- 6. Justifiable deadly force;
- 6- 7. Range safety;
- 7- 8. Practical firearms handling; and
- 8- 9. Principles of marksmanship;

B. No minimum hours are required for range qualification. The purpose of the range qualification course is to provide practical firearms training to individuals desiring to become armed private security services business personnel.

1. Prior to the date of range training, it will be the responsibility of the school director to ensure that all students are informed of the proper attire and equipment to be worn for the firing range portion of the training.

2. Ammunition - 60 rounds - factory loaded semi-wadcutter or duty ammunition may be used for practice or range qualification or both.

3. Target - Silhouette (*M-9, Transitional Target 2*, full-size B21, B21x or B-27) - Alternate targets may be utilized with prior approval by the department.

4. With prior approval of the department, a reasonable modification of the firearms course may be approved to accommodate qualification on indoor ranges.

5. An approved firearms instructor must be on the range during all phases of firearms training. There shall be one firearms instructor or assistant per four shooters on the line.

6. Directional draw holsters only.

7. Scoring:

a. *M-9, Transitional Target 2*, B21, B21x, B27 target - (use indicated K-value) 8,9,10 X rings - value 5 points, 7 ring-value 4 points, other hits on silhouette - value 3 points: divide points scored by maximum possible score to obtain decimal and convert to percentage, e.g. , $225 \div 300 = .75 = 75\%$.

b. Q targets - any fired round striking the bottle area to include its marked border - value 5 points - any fired round striking outside the bottle area - value 3 points.

8. Course: Modified Course for Handguns.

Target - Silhouette (B21, B21X, B27) - 60 rounds

Double action, except for single action semi-automatic weapons.

Minimum qualifying score - 75%

Phase 1 - 3 yards, point shoulder position, 18 rounds:

Load 6 rounds and holster loaded weapon.

On command, draw and fire 2 rounds (3 seconds) repeat.

Load 6 rounds and holster loaded weapon.

On command, draw and fire 6 rounds with strong hand.

Unload, reload 6 rounds and fire 6 rounds with weak hand (25 seconds).

Phase 2 - 7 yards, point shoulder position, 24 rounds:

Load 6 rounds and holster loaded weapon.

On command, draw and fire 1 round (2 seconds), repeat.

Load 6 rounds and holster loaded weapon.

On command, draw and fire 2 rounds (3 seconds), repeat.

Load 6 rounds and holster loaded weapon.

On command, draw and fire 6 rounds, reload 6 rounds, fire 6 rounds (30 seconds).

Phase 3 - 15 yards, 70 seconds, 18 rounds:

Load 6 rounds and holster loaded weapon.

On command, assume kneeling position, draw and fire 6 rounds with strong hand.

Assume standing position, unload, reload and fire 6 rounds from weak hand barricade position.

Unload, reload and fire 6 rounds from strong hand barricade position (70 seconds).

(Kneeling position may be fired using barricade position.)

§ 9.3. Shotgun training.

A. The ~~one hour~~ two hours of classroom instruction will emphasize but not be limited to:

1. Safe and proper use and handling of shotgun;
2. Nomenclature; and
3. Positions and combat loading techniques.

Proposed Regulations

B. No minimum hours required for range firing. The purpose of the range firing course is to provide practical shotgun training to those individuals who carry or have immediate access to a shotgun in the performance of their duties.

C. Ammunition must be of same type as carried in the performance of duty. Five rounds.

D. Scoring - 70% of available pellets must be within silhouette.

E. Course: Modified Shotgun Range

	Distance	Position	No. Rounds	Target	Time
Combat load & fire	15 Yds.	Standing/Shoulder	3	B-27 Silhouette	20 sec.
Combat load & fire	25 Yds.	Kneeling/Shoulder	2	B-27 Silhouette	15 sec.

F. A certified firearms instructor must be on the range during all phases of firearms range training. There shall be one certified firearms instructor or assistant per four shooters on the line.

§ 9.4. Firearms retraining.

A. All armed private security services business personnel must satisfactorily complete two hours of firearms classroom training, range training, and requalify as prescribed in §§ 9.2 and 9.3 § 9.2 B for handgun, and one hour of classroom training, range training, and requalify with the shotgun as prescribed in § 9.3, if applicable, within each calendar year the 12-month period immediately preceding the expiration date of his registration.

B. Approved schools providing firearms retraining must meet the requirements of Part VIII of these regulations.

B. Each armed registrant who has complied with the initial firearms training requirement shall successfully complete firearms retraining annually prior to the expiration date of his registration.

PART X. CERTIFIED PRIVATE SECURITY SERVICES TRAINING SCHOOLS ATTENDANCE AND ADMINISTRATIVE REQUIREMENTS.

Article 1. Attendance and Administrative Requirements.

§ 10.1. Attendance.

The compulsory minimum training standards for initial and in-service training shall be met by attending and satisfactorily completing an approved private security

services training session.

1. Private security services business personnel enrolled in an approved training session are required to be present for the entire period of each training class.

2. Tardiness and absenteeism will not be permitted. Individuals violating these provisions will be required to make up any training missed.

3. Each individual attending an approved training session shall comply with the regulations promulgated by the board and any other rules within the authority of the certified school director. The certified school director shall be responsible for enforcement of all rules established to govern the conduct of students. If the certified school director considers a violation of the rules detrimental to the welfare of the students, the certified school director may expel the individual from the school. Notification of such action shall immediately be reported to the employing firms and the department.

§ 10.2. Administrative requirements.

A. Each certified school director will be required to maintain a current file of approved sessions, attendance records, examination scores, firearms qualification scores, training completion rosters, and training completion forms for each student for three years from the date of the training session in which the individual student was enrolled.

B. Students shall be under the supervision of a certified private security instructor during all classes and examinations.

B. C. Instruction shall be provided in no less than 50-minute classes.

C. D. Classroom and range training may not exceed eight hours per day. (This does not include time allotted for testing, lunch and breaks.)

D. E. Mandated training conducted without prior approval from the department not in accordance with the Code of Virginia and these regulations is null and void.

F. Failure to file and maintain required forms and documentation may result in the imposition of sanctions on the training school and its training director.

E. G. Certified training schools will be subject to inspection and review by department staff. Certified training schools which conduct training sessions not located within Virginia may be required to pay the expenses of inspection and review.

Article 2. Approved Training School Operation.

§ 10.3. Training session schedules .

Prior to conducting any mandated private security services training, approved training schools shall submit to the department a proposed training schedule on a form provided by or approved by the department to be received by the department no less than 10 days prior to the beginning of each training session.

1. Each proposed training session schedule shall be accompanied by a nonrefundable fee. The fee for each type of training session is set forth below:

- a. Core subjects training session \$10
- b. Firearms training \$10
- c. Armored car subjects \$10
- d. Canine handler subjects \$15
- e. Private investigator \$25
- f. Firearms retraining \$10
- g. In-service training \$10

2. The proposed training schedule shall include the date, time, location, subject and name of the approved instructor for each class to be conducted during the training session.

3. Any changes in an approved training session shall be reported to the department immediately. Written notification shall be received by the department within seven business days. An approved training session shall be conducted as scheduled.

4. The A session curriculum, as approved by the department, must be adhered to and all subject matter must be presented in its entirety. The compulsory training standards constitute the minimum requirements; training adhere to the minimum compulsory training standards and must be presented in its entirety. Training directors may require additional hours of instruction, testing or evaluation procedures.

§ 10.4. Examination and testing.

A. A written examination shall be administered at the conclusion of each entry level training session. The examination shall include at least three questions for each 50 minutes of instruction of a mandated subject. The student must attain a minimum grade of 70% to satisfactorily complete the training session.

B. Firearms classroom training shall be separately tested and graded. Individuals must achieve a minimum score of 70% on the firearms classroom training examination.

C. Failure to achieve a minimum score of 70% on the

firearms classroom written examination will exclude the individual from the firearms range training.

D. To successfully complete the firearms range training, the individual must achieve a minimum qualification score of 75% of the scoring value of the target.

§ 10.5. Training completion forms.

On forms provided by the department, each training director shall issue an original training completion form to each student who satisfactorily completes a training session, no later than seven business days following the training completion date. A copy shall be retained on file with the certified training school for a minimum of three years.

§ 10.6. Training completion roster.

The school director shall submit a private security training roster affirming each student's successful completion of the session. This form shall be received by the department within seven business days of the completion date of an approved training session. One copy shall be retained on file with the approved training school for a minimum of three years. *The nonrefundable fee for processing a training completion roster is \$10 per roster.*

§ 10.7. Sanctions.

The private security services training director, training school and instructor shall be subject to disciplinary action for violation or noncompliance with the Code of Virginia and these regulations. Failure to file the forms and reports required by the Code of Virginia and these regulations shall be a basis for sanction. Failure to submit the training completion roster to the department within the required seven business days shall be viewed as a violation by the department.

PART XI. STANDARDS OF PRACTICE AND PROHIBITED ACTS.

Article 1. Standards of Practice.

§ 11.1. Professional services.

In accordance with § 9-182 of the Code of Virginia, these regulations establish standards designed to secure the public safety and welfare against incompetent or unqualified persons engaging in private security services. It shall be the responsibility of the licensee, and its compliance agents, to provide private security services in a professional manner, adhering to ethical standards and sound business practices.

§ 11.2. Documentation required.

A. In the event a complaint against the licensee is received by the department, the compliance agent shall be

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required to furnish documentary evidence of the terms agreed to between licensee and client, which shall include at a minimum the scope of services and fees assessed for such services. This information is necessary for the department to assess the validity of the complaint.

B. Failure to produce such information may result in the imposition of sanctions as set forth in § 13.8 A of these regulations.

Article 2.

Violations and Prohibited Acts.

§ 11.3. Violations.

Each person subject to jurisdiction of these regulations, who violates any statute or regulation pertaining to private security services ~~may~~ shall be subject to sanctions imposed by the ~~director~~ department regardless of criminal prosecution. The sanctions imposed may include, but shall not be limited to, a letter of censure, *probation*, suspension, revocation, and fine not to exceed \$2,500 for each violation.

§ 11.4. Prohibited acts.

It shall be unlawful for a person to engage in any of the following acts. Each of the acts listed below is cause for disciplinary action:

1. Violating or aiding and abetting others in violating the provisions of Article 2.1 (§ 9-183.1 et seq.) of Chapter 27 of Title 9 of the Code of Virginia or these regulations.

2. Having committed any act or omission which resulted in a private security license or registration being suspended, revoked, not renewed or being otherwise disciplined in any jurisdiction.

3. Having been convicted or found guilty, regardless of adjudication in any jurisdiction of the United States, of any felony or a misdemeanor involving moral turpitude, sexual offense, drug offense, physical injury, or property damage, from which no appeal is pending, the time for appeal having elapsed. Any plea of nolo contendere shall be considered a conviction for the purpose of these regulations. The record of conviction certified or authenticated in such form as to be admissible in evidence under the laws of the jurisdiction where convicted shall be prima facie evidence of such guilt.

4. Failing to inform the department in writing within 30 days of pleading guilty or nolo contendere or being convicted or found guilty of any felony or of a misdemeanor involving moral turpitude, sexual offense, drug offense, physical injury or property damage.

5. Obtaining a license, license renewal, registration, registration renewal, training certification, training

certification renewal, or certification to act as compliance agent for a licensee, a training school, school director, or instructor, through any fraud or misrepresentation.

6. Failing or refusing to produce to the department, during regular business hours, for inspection or copying any document or record in the compliance agent's or the licensed firm's possession which is pertinent to the records required to be kept by the Code of Virginia or by these regulations.

7. *Engaging in conduct which through word, deed, or appearance suggests that a private security registrant or employee is a law-enforcement officer or other government official.*

~~7.~~ 8. Failing to inform the department in writing within 30 days after having been found guilty by any court or administrative body of competent jurisdiction to have violated the private security services business statutes or regulations of that jurisdiction, there being no appeal therefrom or the time for appeal having elapsed.

8. 9. Conducting a private security services business or acting as a registrant or compliance agent in such a manner as to endanger the public health, safety and welfare.

9. 10. Engaging in *unethical*, fraudulent or dishonest conduct.

~~10.~~ 11. Falsifying, or aiding and abetting others in falsifying, training records for the purpose of obtaining a license, registration, unarmed security officer training certification, or certification as a compliance agent, training school, school director or instructor.

~~11.~~ 12. Representing as one's own a license issued to another private security services business or a registration issued to another individual, or representing oneself as a certified compliance agent of a licensee, training school, school director or instructor.

~~12.~~ 13. Employing individuals who do not possess a valid registration issued by the department showing the registration categories required to perform one's duties.

~~13.~~ 14. Utilizing a person as an armed security officer who has not successfully completed the compulsory minimum standards for armed security officers or who does not have a valid firearms certification.

~~14.~~ 15. Performing any unlawful or negligent act resulting in loss, injury or death to any person.

~~15.~~ 16. *If wearing while on duty ; the law-enforcement style or military style uniform of a private security*

Proposed Regulations

licensee:

a. Which does not have at least one insignia clearly identifying the name of the licensed firm employing the individual and, except armored car personnel, a name plate or tape bearing, as a minimum, the individual's last name and first and middle initials attached on the outermost garment, except rainwear worn only to protect from inclement weather; and

b. Having a patch or other writing containing the word "police" or any other words suggesting a law-enforcement officer, or "officer," unless used in conjunction with the word "security"; or resembling any uniform patch or insignia of any duly constituted law-enforcement agency of this Commonwealth, its political subdivisions or of the federal government. This restriction shall not apply to individuals who are also duly sworn special police officers, to the extent that they may display words which accurately represent that distinction.

~~16. Using~~ 17. Utilizing a vehicle in the conduct of for a private security services business which uses or displays a flashing red, blue or amber light not specifically authorized by the Code of Virginia.

~~17. 18. Using or displaying the state seal of Virginia as a part of any licensed firm's logo, stationery, business card, badge, patch, insignia or other form of identification or advertisement.~~

~~18. 19. Displaying of the uniform, badge or other insignia by employees of licensed firms while not on duty.~~

~~19. 20. During the course of any private investigation, providing information obtained by any licensed firm and its employees to any person other than the client who employed the licensee to obtain that information, without the client's prior written consent. Provision of information in response to official requests from law-enforcement agencies, or from the department, shall not constitute a violation of these regulations. Provision of information to law-enforcement agencies pertinent to criminal activity or to planned criminal activity shall not constitute a violation of these regulations.~~

~~20. 21. The failure of a licensee's approved compliance agent to at all times comply with the following:~~

a. Ensure that the licensed firm is at all times in full compliance with the Code of Virginia and these regulations;

b. Ensure that the documentary evidence concerning unarmed security officers required by § 9-183.3 D of the Code of Virginia is maintained;

c. Ensure that the licensed firm does not utilize or otherwise employ any person as an unarmed security officer in excess of 90 days prior to the completion of the compulsory minimum training standards for unarmed security officer; and

d. Maintain VSP Forms 167, training, employment and payroll records which document the licensed firm's compliance with the Code of Virginia and these regulations.

~~21. 22. Failure of the certified school director or certified instructor to comply with the following:~~

a. Conduct training in compliance with the ~~approved training schedule~~ compulsory minimum training standards ;

b. Utilize only certified training instructors;

c. Provide only accurate and current instruction and information to students;

d. Maintain and file with the department all records required by the Code of Virginia and these regulations; ~~and~~

e. Ensure that the certified training school ~~and each approved session are held~~ is in compliance with the Code of Virginia and these regulations ; ; or

f. Submit training completion rosters and fees to the department within seven business days of the completion of training.

23. Soliciting private security services business through advertising, business cards, bidding on contracts, or other means without having first obtained a private security services business license.

24. Failing to carry the private security photo identification card at all times while on duty.

25. Failure of an individual to present his private security registration photo identification card while on duty in response to the request of a law-enforcement officer, department personnel or client. This shall not apply to armored car personnel or personal protection specialists.

PART XII.

AUTHORITY OF THE DEPARTMENT.

§ 12.1. Authority of the director.

A. In addition to the authority conferred by law, the director and his appointed agents are vested with the authority to administer oaths or affirmations for the purpose of receiving complaints and conducting investigations of violations of these regulations. The director, or agents appointed by him, shall be sworn to

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enforce the statutes and regulations pertaining to private security services businesses and private security services business personnel and shall have the authority to serve and execute any warrant, paper or process issued by any court or magistrate within jurisdiction of the department.

B. Further, in addition to the authority granted in § 9-6.14:13 of the Code of Virginia to issue subpoenas, the director, or a designated subordinate, shall have the right to make an ex parte application to the circuit court for the city or county wherein evidence sought is kept or wherein a licensee does business for the issuance of a subpoena duces tecum in furtherance of the investigation of a sworn complaint within the jurisdiction of the department.

C. The department may conduct hearings and issue cease and desist orders to persons who engage in activities prohibited by these regulations but do not hold a valid license, certificate or registration. Any person in violation of a cease and desist order entered by the department shall be subject to all of the remedies provided by law and, in addition, shall be subject to a civil penalty payable to the party injured by the violation.

D. The director may summarily suspend a license under these regulations without a hearing, simultaneously with the filing of a formal complaint and notice for a hearing, if the director finds that the continued operations of the licensee or registrant would constitute a life-threatening situation, or has resulted in personal injury or loss to the public or to a consumer, or which may result in imminent harm, personal injury or loss.

PART XIII. ADMINISTRATIVE REVIEW.

§ 13.1. Authority.

Pursuant to the authority conferred in § 9-182 B 6 of the Code of Virginia and in accordance with the procedures set forth by the Administrative Process Act and the procedures prescribed herein, the department is empowered to receive, review, investigate and adjudicate complaints concerning the conduct of any person whose activities are regulated by the board. The board will hear and act upon appeals arising from decisions made by the director. In all case decisions, the Criminal Justice Services Board shall be the final agency authority.

§ 13.2. Complaints; complaint requirements; source of complaint; telephonic complaint.

A. Complaint requirements:

1. May be oral or in writing; and
2. Must allege a violation of the law or these regulations relating to private security services.

B. Any aggrieved or interested person may file a

complaint against any individual, person, firm or licensed firm, school or certified school whose conduct and activities are regulated by the board. Additionally, the department may initiate proceedings to adjudicate an alleged violation as a result of its own audit, inspection, or investigation.

C. The department may accept and investigate telephonic complaints regarding activities which constitute a life-threatening situation, or have resulted in personal injury or loss to the public or to a consumer, or which may result in imminent harm or personal injury.

§ 13.3. Adjudication of complaints.

Following a preliminary investigative process, the department may initiate action to resolve the complaint through an informal fact finding conference or formal hearing *as established in §§ 13.4 and 13.5*.

§ 13.4. Informal fact finding conference.

A. The purpose of an informal fact finding conference is to resolve allegations through informal consultation and negotiation. Informal fact finding conferences shall be conducted in accordance with § 9-6.14:11 of the Code of Virginia.

B. The respondent, the person against whom the complaint is filed, may appeal the decision of an informal fact finding conference and request a formal hearing, provided that written notification is given to the department within 30 days of the date the informal fact finding decision notice was served, or the date it was mailed to the respondent, whichever occurred first. In the event the informal fact finding decision was served by mail, three days shall be added to that period.

§ 13.5. Formal hearing.

A. Formal hearing proceedings may be initiated in any case in which the basic laws provide expressly for a case decision, or in any case to the extent the informal fact finding conference has not been conducted or an appeal thereto has been timely received. Formal hearings shall be conducted in accordance with § 9-6.14:12 of the ~~Administrative Process Act~~ *Code of Virginia*. The findings and decision of the director resulting from a formal hearing may be appealed to the board.

B. After a formal hearing pursuant to § 9-6.14:12 of the Code of Virginia wherein a sanction is imposed to fine, or to suspend, revoke or deny issuance or renewal of any license, registration, certification or approval, the department may assess the holder thereof the cost of conducting such hearing when the department has final authority to grant such license, registration, certification or approval, unless the department determines that the offense was inadvertent or done in good faith belief that such act did not violate a statute or regulation. The cost shall be limited to (i) the reasonable hourly rate for the

Proposed Regulations

hearing officer; and (ii) the actual cost of recording the proceedings. This assessment shall be in addition to any fine imposed by sanctions.

§ 13.6. Appeals.

The findings and the decision of the director may be appealed to the board provided that written notification is given to the attention: Director, Department of Criminal Justice Services, 805 East Broad Street, Richmond, Virginia 23219, within 30 days following the date notification of the hearing decision was served, or the date it was mailed to the respondent, whichever occurred first. In the event the hearing decision is served by mail, three days shall be added to that period. (Rule 2A:2 of Rules of the Virginia Supreme Court.)

§ 13.7. Court review; appeal of final agency order.

A. The agency's final administrative decision (final agency orders) may be appealed. Any person affected by, and claiming the unlawfulness of the agency's final case decision, shall have the right to direct review thereof by an appropriate and timely court action. Such appeal actions shall be initiated in the circuit court of jurisdiction in which the party applying for review resides; save, if such party is not a resident of Virginia, the venue shall be in the city of Richmond, Virginia.

B. Notification shall be given to the attention Director, Department of Criminal Justice Services, 805 East Broad Street, Richmond, Virginia 23219, in writing within 30 days of the date notification of the board decision was served, or the date it was mailed to the respondent, whichever occurred first. In the event the board decision was served by mail, three days shall be added to that period. (Rule 2A:2 of Rules of the Virginia Supreme Court.)

C. During all judicial proceedings incidental to such disciplinary action, the sanctions imposed by the board shall remain in effect, unless the court issues a stay of the order.

§ 13.8. Disciplinary action; sanctions; publication of record.

A. The department may impose any of the following sanctions, singly or in combination, when it finds the respondent in violation, or in noncompliance, of these regulations:

1. Letter of reprimand or censure;
2. *Probation for any period of time;*
3. 3. Suspension of license, registration, certification, or approval granted, for any period of time;
3. 4. Revocation;
4. 5. Refusal to issue, renew or reinstate a license, registration, certification or approval;

5. 6. Fine not to exceed \$2,500 per violation.

B. All proceedings pursuant to this section are matters of public record and shall be preserved. The department may publish a list of the names and addresses of all persons, licensees, firms, registrants, training schools, school directors, compliance agents and licensed firms whose conduct and activities are subject to these regulations and have been sanctioned or denied licensure, registration, certification or approval.

VA.R. Doc. No. R95-279; Filed February 1, 1995, 3:49 p.m.



Commonwealth of Virginia
 Department of Criminal Justice Services
 Private Security Section
 P.O. Box 10110, Richmond, VA 23240-9998 (804) 786-4700

Form
 PSS BL 7-193

Initial License Application
Private Security Services Business
 Fee: \$600 Non-Refundable
 Make checks payable to: Treasurer, Commonwealth of Virginia

INSTRUCTIONS	DCJS USE ONLY
1. A Certificate of Insurance on a Form provided by the department showing a policy of comprehensive general liability insurance with a minimum coverage of \$100,000 and \$300,000 (FormPSS BL 7-293). 2. Applicant shall file with the department evidence of a \$25,000 surety bond, (FormPSS BL 7-393) 3. Two (2) complete fingerprint cards for the sole proprietor 4. Non-refundable fee of \$600 Incomplete application will be returned	Application Type: <u>LA</u> Date Received: _____ Business License Number: _____ Fee Codes: <u>120</u> _____ Amount Applied: _____ Transaction Number: _____

Pursuant to the Provisions of Article 2.1, Chapter 27 Title 9, Code of Virginia as amended the below named hereby makes application for a license as a private security services business.

1. Business Name: _____ Federal ID Number: _____
 Trading As: _____
Name under which Applicant intends to do business
 Physical Address: _____
Street & No. City County Precip Zip
 Mailing Address: _____
Street & No. City County Precip Zip
 Business Telephone: (____) _____ Other Number: (____) _____

If your business address is not in Virginia you must attach an Irrevocable Consent for Service form (Form PSS BL 7-493).

2. Type of Ownership: (Check one)
 Sole Proprietor Partnership Corporation
If Incorporated, please submit a copy of your Certificate of Authority from the Virginia State Corporation Commission.

3. Category of services the business will provide: (Check each that applies)
 Armored Car Personnel Private Investigator/Private Detective Armed Guard/Couriers
 Unarmed Guard Guard Dog Handler

4. Name of Compliance Agent: _____ SSN: _____

5. If Sole Proprietorship, list owner: _____ SSN: _____
 6. If Corporation or Partnership, List Officers/Directors/Partners: Each person listed below shall complete Form PSS BL 7-193a and submit with this application.
 President/Director/Partner: _____ SSN: _____
 Vice President/Director/Partner: _____ SSN: _____
 Secretary/Director/Partner: _____ SSN: _____
 Director/Partner: _____ SSN: _____

7. Have you or any compliance agent, officer or partner ever been convicted of a felony or misdemeanor? Yes No
If yes, attach an explanation providing full detail including charge, date, place, law enforcement agency involved and disposition of each charge.

8. Are you now or have you ever been licensed or registered as a private security business or employee by any other jurisdiction? Yes No
If yes, which jurisdiction? _____

9. Has a license or registration issued to you to operate in a Private Security Business in Virginia, or any other jurisdiction, ever been suspended or revoked for any reason? Yes No
If yes, attach an explanatory letter.

AFFIDAVIT

Commonwealth of: _____ County/City of: _____

The undersigned being duly sworn, states that he is the person who executed this application, that the statements herein contained are true, that he has not suppressed any information that might affect this application, and that he has reviewed and understands this affidavit.

Signature of Compliance Agent

Date

Signature of Principal Owner

Date

Subscribed and sworn to before me this _____ day
 of _____, 19____.

Signature of Notary Public

My Commission Expires: _____

DCJS ACTION TAKEN	
<input type="checkbox"/> Approved	<input type="checkbox"/> Disapproved
_____ <small>Authorized Signature</small>	
Date: _____	



COMMONWEALTH OF VIRGINIA
 Department of Criminal Justice Services
 Private Security Section
 P.O. Box 10110, Richmond, VA 23240-9998 (804) 786-4700

Form PSS MB 7-94

**Supplemental Private Security Services
 Business License Application
 FEE: \$41 Non-Refundable**

Make checks payable to: Treasurer, Commonwealth of Virginia

INSTRUCTIONS	DCJS USE ONLY
The following must accompany this application: 1. Two (2) completed DCJS fingerprint cards and 2. Non-refundable fee of \$41. INCOMPLETE APPLICATIONS WILL BE RETURNED.	Application Type: <u>MB</u> Date Received: _____ Fee Codes: <u>125</u> _____ Amount applied: _____ Transaction Number: _____

BUSINESS NAME: _____ PHONE: (____) _____

BUSINESS ADDRESS: _____
Number and Street City/Town State Zip

NAME OF INDIVIDUAL: _____ SSN: _____
Last First Middle

BIRTH DATE: _____ TELEPHONE: (____) _____ FAX: (____) _____

PHYSICAL ADDRESS: _____
City/Town State Zip

MAILING ADDRESS: _____
City/Town State Zip

Have you ever been convicted of a felony or a misdemeanor in Virginia or any other jurisdiction? Yes No
 If yes, attach an explanation.

Are you now or have you ever been licensed or registered in Private Security by any other jurisdiction? Yes No
 If yes, which jurisdiction? _____

Has a license or registration issued to you to operate a Private Security Services Business in Virginia, or any other jurisdiction, ever been suspended or revoked for any reason? Yes No
 If yes, attach an explanation.

AFFIDAVIT

Commonwealth of: _____ County/City of: _____

The undersigned being duly sworn, states that he is the person who executed this application, that the statements herein contained are true, that he has not suppressed any information that might affect this application, and that he has read and understands this affidavit.

Subscribed and sworn to before me this _____ day of _____, 19____

 Signature of Applicant

 Signature of Notary Public

 My Commission Expires:



Commonwealth of Virginia
 Department of Criminal Justice Services

Form
 PSS BL 7-293

Private Security Section
 P.O. Box 10110, Richmond, VA 23240-9998 (804) 786-4700

Certificate of Insurance

PSS Business License # _____

This certificate is issued as a matter of information only and confers no rights upon the certificate holder. This certificate does not extend or alter the coverage afforded by the policies listed below.

Agent Information

Name: _____

Address: _____

City/State/Zip: _____ Phone: (____) _____

Insured Information

Licensee: _____

DBA: _____
(Doing Business As)

Address: _____

City/State/Zip: _____ Phone: (____) _____

Compliance Agent: _____

Company Affording Coverage

Name: _____

Address: _____

City/State/Zip: _____ Phone: (____) _____

This is to certify that policies of insurance listed below have been issued to the Insured named above and are in force at this time. Notwithstanding any requirement, term or condition of any contract or other document with respect to which this certificate may be issued or may pertain, the insurance afforded by the policies described herein is subject to all the terms, exclusions and conditions of such policies.

Type of Insurance	Policy Number	Effective Date	Policy Expiration Date	Limits of Liability in Thousands (\$00)		
				General Liability	Auto	Umbrella
<input checked="" type="checkbox"/> General Liability Comprehensive Form Coverage				Minimum	100	300

This certificate is evidence of the above listed licensee's compliance with Section 9-183.5 Code of Virginia.

Cancellation: Should any of the above described policies be cancelled before the expiration date thereof the issuing company will endeavor to mail 30 days written notice to the below named certificate holder, but failure to mail such notice shall impose no obligation or liability of any kind upon the company.

NAME AND ADDRESS OF CERTIFICATE HOLDER
 Department of Criminal Justice Services
 Private Security Section
 P.O. Box 10110
 Richmond, Virginia 23240-9998

Date issued: _____

Authorized Representative



Commonwealth of Virginia
Department of Criminal Justice Services
Private Security Section
P.O. Box 10110, Richmond, VA 23240-9998 (804) 786-4700

Form PSS BL 7-393

Private Security Services Bond

Bond # _____
PSS Business License # _____

KNOW ALL MEN BY THESE PRESENTS:

That I/We _____ of _____ Principal, and Surety, are held and firmly bound unto the Secretary of the Commonwealth of Virginia, in the just and full sum of Twenty-Five Thousand Dollars (\$25,000) to the payment whereof well and truly to be made, we bind ourselves, our heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.

THE CONDITION OF THE ABOVE OBLIGATION IS SUCH that whereas the above bound _____ has made application for license to be a Private Security Services business.

NOW, THEREFORE, if the said _____ shall well and faithfully perform its duties as a Private Security Services business AND does no act or acts meriting suspension or revocation of its license under the provisions of Chapter 27, Title 9, Code of Virginia, 1950 as amended, then this obligation is void, otherwise to remain in full force and effect, subject, however, to the following conditions:

- 1. That this bond shall be continuous in form, and shall remain in full force and effect until canceled as hereinafter provided.
2. This bond may be canceled at any time by the Principal or the Surety upon giving thirty (30) days written notice to the Department of Criminal Justice Services, at Richmond, Virginia, of its intention to do so, it being understood that the Surety shall be liable for any violation of the terms of this bond by the Principal accruing during the life of this bond.
3. Any person aggrieved by any act of the above bounden principal in violation of the provisions of Chapter 27, Title 9, Code of Virginia, 1950 as amended, may proceed against the principal or surety on said bond, or both, to recover damages not to exceed of the penalty of such bond, in accordance with the provisions of Chapter 27, Title 9, Code of Virginia, 1950 as amended.

IN WITNESS THEREOF, The said _____ Principal(s) has hereunto affixed his or her signature and seals, and the Surety has caused these presents to be executed by _____ its duly authorized Attorney-in-Fact, this _____ day of _____, 19 _____.

Expiration Date _____ (SEAL)

_____, SURETY:
(Authorized to conduct business in the Commonwealth of Virginia)

_____, (SEAL)



Commonwealth of Virginia
Department of Criminal Justice Services
Private Security Section
P.O. Box 10110, Richmond, VA 23240-9998 (804) 786-4700

Form PSS BL 7-493

Irrevocable Consent for Service

To be executed by each non-resident business of Virginia applying for license

PSS Business License # _____

Firm Name: _____

Business Address: _____

Compliance Agent: _____

WHEREAS, I, or we, the above named applicant for license privileges as a Private Security Services Business trading and/or operating individually or for or under the firm name of _____ have made application for a license to act as a Private Security Services Business, Non-Resident, within the Commonwealth of Virginia, in accordance with the provisions of Chapter 27, Title 9 of the Code, 1950 as amended.

WHEREAS, under the provisions of said Chapter, it is necessary to file with the Director, Department of Criminal Justice Services, Richmond, Virginia, an irrevocable consent that actions against the subscriber (or subscribers) may be filed in any appropriate court of any county or municipality of this Commonwealth in which the plaintiff resides or in which some part of the transaction occurred out of which the alleged cause of action arose and that process in any action may be served on the subscriber (or subscribers) by leaving two copies thereof with the Director of the Department. Such consent shall stipulate and agree that such service of process shall be valid and binding for all purposes;

NOW THEREFORE, I, or we, _____, the above named applicant for license privilege as a Private Security Services Business as aforesaid, hereby execute and file with the Director of the Department of Criminal Justice Services our (or my) Irrevocable Consent that actions against the subscriber (or subscribers) may be filed in any appropriate court of any county or municipality of this Commonwealth in which the plaintiff resides or in which some part of the transaction occurred out of which the alleged cause of action arose and that process in any action may be served on the subscriber (or subscribers) by leaving two copies thereof with the Director of the Virginia Department of Criminal Justice Services. Such consent shall stipulate and agree that such service of process shall be valid and binding for all purposes.

In witness whereof, I, or we _____ have hereunto signed our name, this _____ day of _____, 19 _____.

Subscribed and sworn to before me this _____ day of _____, 19 _____.

_____, Signature of Principal Owner

_____, Signature of Compliance Agent

_____, Signature of Notary Public

My Commission Expires: _____



COMMONWEALTH OF VIRGINIA
Department of Criminal Justice Services
Private Security Section
P.O. Box 10110, Richmond, VA 23240-9998 (804) 786-4700

Form PSS FP 7

Fingerprint Processing Application

FEE: \$41 Non-Refundable

Make checks payable to: Treasurer, Commonwealth of Virginia

INSTRUCTIONS and DCJS USE ONLY table for Fingerprint Processing Application

APPLICANT'S NAME, SSN, DOB, PHYSICAL ADDRESS, MAILING ADDRESS, TELEPHONE, BUSINESS NAME

EMPLOYMENT CATEGORY(S) : Please check all boxes which apply:

- Owner/Director/Partner, Compliance Agent, Alarm Respondent, Armored Car Personne, Central Station Dispatcher, Electronic Security Employee, Electronic Security Technician, Electronic Security Sales Representative, Other (Describe)

Have you ever been convicted of a felony or a misdemeanor in Virginia or any other jurisdiction? Yes No

Are you now or have you ever been licensed or registered by any other jurisdiction? Yes No

Has a license or registration issued to you to operate in a Private Security Services Business in Virginia, or any other jurisdiction ever been suspended or revoked for any reason? Yes No

AFFIDAVIT

Commonwealth of: County/City of: The undersigned being duly sworn, states that he is the person who executed this application...

Signature of Applicant, Signature of Notary Public



COMMONWEALTH OF VIRGINIA
Department of Criminal Justice Services
Private Security Section
P.O. Box 10110, Richmond, VA 23240-9998 (804) 786-4700

Form PSS CA 75

Application for Compliance Agent Training & Certification

FEE: \$126 Non-Refundable

Make checks payable to: Treasurer, Commonwealth of Virginia

INSTRUCTIONS and DCJS USE ONLY table for Compliance Agent Training & Certification

APPLICANT'S NAME, SSN, DOB, PHYSICAL ADDRESS, MAILING ADDRESS, TELEPHONE, PRIVATE SECURITY SERVICES BUSINESS

MANAGEMENT/SUPERVISORY EXPERIENCE:

Official Documentation in Private Security Related Field Must Be Attached. (A Minimum of 3 Years Management/Supervisory Experience Is Required For Certification)

Have you ever been convicted of a felony or a misdemeanor in Virginia or any other jurisdiction? Yes No

Are you now or have you ever been licensed or registered in Private Security by any other jurisdiction? Yes No

Has a license or registration issued to you to operate in a Private Security Services Business in Virginia, or any other jurisdiction ever been suspended or revoked for any reason? Yes No

Do you understand that you may be a Compliance Agent for only 1 licensed Private Security Services Business? Yes No

Do you understand that you are responsible for the full compliance with Virginia law and regulation of the licensed firm name above? Yes No

Have you ever previously served as a Compliance Agent? Yes No

Training Date Requested:

<OVER>

AFFIDAVIT

Commonwealth of: _____ County/City of: _____

The undersigned being duly sworn, states that he is the person who executed this application, that the statements herein are true, that he has not suppressed any information that might affect this application, and that he has read and understood this affidavit.

Subscribed and sworn to before me this _____ day of _____

Signature of Applicant Signature of Notary Public

My Commission Expires: _____



COMMONWEALTH OF VIRGINIA
Department of Criminal Justice Services
Private Security Section
P.O. Box 10110, Richmond, VA 23240-9998 (804) 786-4700

Form PSS LR 7

**Private Security Services
Business License Renewal Application
FEE: \$250 Non-Refundable**

Make checks payable to: Treasurer, Commonwealth of Virginia

INSTRUCTIONS	DCJS USE ONLY
The following must accompany this application:	Application Type: <u>LR</u> Date Received: _____
1. Certificate of Insurance; or	Fee Codes: <u>121</u> _____
2. Evidence of \$25,000 Surety Bond; and	Amount applied: _____
3. Non-refundable fee of \$250.	Transaction Number: _____
INCOMPLETE APPLICATIONS WILL BE RETURNED.	

LICENSED FIRM: _____ I.D.#: _____

FEDERAL IDENTIFICATION NUMBER: _____

PHYSICAL ADDRESS: _____
Number and Street City/Town State Zip

MAILING ADDRESS: _____
City/Town State Zip

TELEPHONE: () _____ FAX: () _____

PLEASE LIST ALL COMPLIANCE AGENTS:

NAME: _____ Soc.Sec.#: _____

INITIAL TRAINING DATE: _____ IN-SERVICE TRAINING DATE: _____

NAME: _____ Soc.Sec.#: _____

INITIAL TRAINING DATE: _____ IN-SERVICE TRAINING DATE: _____

NAME: _____ Soc.Sec.#: _____

INITIAL TRAINING DATE: _____ IN-SERVICE TRAINING DATE: _____

CATEGORY OF SERVICES THE BUSINESS PROVIDES: (Check each that applies)

- Armored Car Personnel Private Investigator Armed Security Officers/Couriers
 Unarmed Security Officers Guard Dog Handlers

ATTACH PROOF OF PUBLIC LIABILITY (Check one): Insurance Bond

INSURANCE/BOND EXPIRES: _____

DCJS USE ONLY	DCJS ACTION TAKEN
C/A Training Session _____ Completion Date: _____	Approved _____ Denie _____
Examination Score: _____ Date: _____	Authorized Signature _____
PSS Business License Number: _____	Date: _____
Criminal Records Search: _____	

IF SOLE PROPRIETORSHIP, LIST OWNER: _____ Soc. Sec. #: _____

IF CORPORATION OR PARTNERSHIP, LIST ALL OFFICERS/DIRECTORS/PARTNERS:

President of Partner: _____ Soc. Sec. #: _____

Vice President or Partner: _____ Soc. Sec. #: _____

Secretary or Partner: _____ Soc. Sec. #: _____

Partner: _____ Soc. Sec. #: _____

Have you or any officer, partner or employee in your private security services business been convicted or found guilty of a criminal offense, other than traffic violations, not previously reported to the Department?

YES NO (If yes, submit written explanation and official court disposition(s))

Have you or any officer or partner in your private security services business committed any act or omission since your last renew which resulted in a license or registration being suspended, revoked, not renewed or being otherwise disciplined in any jurisdiction?

YES NO (If yes, submit written explanation)

Commonwealth of: _____ County/City of: _____

The undersigned being duly sworn, states that he is the person who executed this application, that the statements herein contained are true, that he has not suppressed any information that might affect this application, and that he has read and understands this affidavit. The undersigned also understands that any misrepresentation or falsification of this application may be cause for denial.

Subscribed and sworn to before me this _____ day of _____, 19__

Signature of Compliance Agent

Date

Signature of Principal Owner

Date

Signature of Notary Public

My Commission Expires: _____



COMMONWEALTH OF VIRGINIA

Department of Criminal Justice Services

Private Security Section

P.O. Box 10110, Richmond, VA 23240-9998 (804) 786-4700

Form PSS CT 7

Compliance Agent In-Service Training Enrollment

FEE: \$50 Non-Refundable

Make checks payable to: Treasurer, Commonwealth of Virginia

NAME: _____
Last First Middle

SSN: _____ DOB: _____

PHYSICAL ADDRESS: _____
Number and Street City/Town State Zip

MAILING ADDRESS: _____
City/Town State Zip

TELEPHONE: () _____ FAX: () _____

LICENSED PRIVATE SECURITY BUSINESS: _____ PSSB LICENSE # _____

DATE OF INITIAL APPROVAL AS COMPLIANCE AGENT: _____

DATE PREVIOUS COMPLIANCE AGENT IN-SERVICE TRAINING COMPLETED: _____

IN-SERVICE SESSION DATE AND LOCATION REQUESTED: _____

CHECK IF APPLICABLE:

ADA Accommodation Requested (Please Specify Below)

Should there be any questions, please call the Private Security Section at (804) 786-4700.

Signature of Applicant

Date



COMMONWEALTH OF VIRGINIA
Department of Criminal Justice Services
Private Security Section
P.O. Box 10110, Richmond, VA 23240-9998 (804) 786-4700

Form PSS RA-7-

APPLICATION FOR INITIAL PRIVATE SECURITY REGISTRATION

FEE: \$76 Non-Refundable
Make checks payable to: Treasurer, Commonwealth of Virginia

TRAINING COMPLETED (Check those which apply and provide information requested)

Table with 3 columns: Type of Training, Date Completed, Name of Training School. Rows include ENTRY-LEVEL, Private Investigator Subjects, Guard Dog Handler Subjects, Core Subjects, Armored Car Subjects, Handgun Training, Shotgun Training.

INSTRUCTIONS and DCJS USE ONLY section. Includes requirements for application completion and fields for Application Type, Date Received, Fee Codes, Amount applied, and Transaction Number.

Personal information fields: APPLICANT'S NAME, SSN, DOB, PLACE OF BIRTH, PHYSICAL ADDRESS, MAILING ADDRESS, TELEPHONE, FAX, EMPLOYER, DATE OF EMPLOYMENT.

Have you ever been convicted of a felony or a misdemeanor in Virginia or any other jurisdiction?
Have you ever had a private security license, certificate, registration or permit suspended, revoked or denied in Virginia, or in any other jurisdiction?

REGISTRATION CATEGORY(S) REQUESTED

- Private Investigator, Guard Dog Handler, Armored Car Personnel, Armed Security Officer/Courier

TRAINING CERTIFICATION REQUESTED

- Unarmed Security Officer, Firearms Certification (Check each which apply): Handgun, Shotgun

<OVER>

AFFIDAVIT

Commonwealth of: County/City of:
The undersigned being duly sworn, states that he is the person who executed this application, that the statements herein contained are true, that he has not suppressed any information that might affect this application, and that he has read and understands this affidavit.

Signature of Applicant, Signature of Notary Public, My Commission Expires:

DCJS ACTION TAKEN box with fields for Approved, Denied, Authorized Signature, and Date.



COMMONWEALTH OF VIRGINIA
Department of Criminal Justice Services
Private Security Section
P.O. Box 10110, Richmond, VA 23240-9998 (804) 786-4700

Form PSS RR 7-

RENEWAL APPLICATION FOR PRIVATE SECURITY REGISTRATION

FEE: \$35 Non-Refundable
Make checks payable to: Treasurer, Commonwealth of Virginia

INSTRUCTIONS	DCJS USE ONLY
The following must accompany this application: 1. Copy of PSS TCF COMPLETION OF TRAINING FORM 2. Non-refundable fee of \$35	Application Type: <u>RR</u> Date Received: _____ Fee Codes: <u>111</u> _____ Amount applied: _____ Transaction Number: _____
INCOMPLETE APPLICATIONS WILL BE RETURNED.	

APPLICANT'S NAME: _____
 SSN: _____ DOB: _____ PLACE OF BIRTH: _____
 PHYSICAL ADDRESS: _____
 MAILING ADDRESS: _____
 TELEPHONE: () _____ FAX: () _____
 EMPLOYER: _____

Have you ever been convicted of a felony or a misdemeanor in Virginia or any other jurisdiction? Yes No
 If yes, on a separate piece of paper, please give full details, including charge, date, place, law enforcement agency involved and dispositions.

Have you ever had a private security license, certificate, registration or permit suspended, revoked or denied in Virginia, or any other jurisdiction? Yes No
 If yes, attach an explanation.

REGISTRATION CATEGORY(S) REQUESTED

- Private Investigator Guard Dog Handler Armored Car Personnel Armed Security Officer/Courier

TRAINING CERTIFICATION REQUESTED

- Unarmed Security Officer Firearms Qualification (Check each which apply): Handgun Shotgun

< OVER >

TRAINING COMPLETED (Check those which apply and provide information requested)

Type of Training	Date Completed	Name of Training School
ENTRY-LEVEL		
Private Investigator Subjects		
Guard Dog Handler Subjects		
Core Subjects		
Armored Car Subjects		
Handgun Training		
Shotgun Training		
IN-SERVICE		
Private Investigator Subjects		
Guard Dog Handler Subjects		
Core Subjects		
Armored Car Subjects		
FIREARMS RETRAINING		
Handgun Retraining		
Shotgun Retraining		

AFFIDAVIT

Commonwealth of: _____ County/City of: _____
 The undersigned being duly sworn, states that he is the person who executed this application, that the statements herein contained are true, that he has not suppressed any information that might affect this application, and that he has read and understands this affidavit.
 Subscribed and sworn to before me this _____ day of _____, 19__

Signature of Applicant

Signature of Public Officer

My Commission Expires: _____

DCJS ACTION TAKEN	
<input type="checkbox"/> Approved	<input type="checkbox"/> Denied
Authorized Signature _____	
Date: _____	



Commonwealth of Virginia
Department of Criminal Justice Services
Private Security Section
P.O. Box 10110, Richmond, VA 23240-9998 (804) 786-4700

Form
PSS ICR S-793

Application for Duplicate/Replacement Photo Identification

Fee: \$15 Non-Refundable

Make checks payable to: Treasurer, Commonwealth of Virginia

INSTRUCTIONS	DCJS USE ONLY
The following must accompany this application: 1. Non-refundable fee of \$15. Incomplete applications will be returned	Application Type: <u>MP</u> Date Received: _____ Fee Codes: _____ Amount Applied: _____ Transaction Number: _____

Part I

- Name: _____ SSN: _____
First Middle Last
- Physical Address: _____
Street & Number
City/Town State Zip Code Telephone: () _____
- Date of Birth: _____ Place of Birth: _____
- Employer: _____

Part II: Registration Category(s)

- Private Investigator/ Private Detective Guard Dog Handler Armed Guard / Couter Armored Car Personnel

Part III: Training Certification

- Unarmed Guard Firearms Certification:
 ___ Handgun
 ___ Shotgun

AFFIDAVIT

Commonwealth of: _____ County/City of: _____

The undersigned being duly sworn, states that he is the person who executed this application, that the statements herein contained are true, that he has not suppressed any information that might effect this application, and that he has read and understands this affidavit.

Signature of Applicant

Date

Subscribed and sworn to before me this _____ day
of _____ 19 _____

Signature of Notary Public

My Commission Expires _____



COMMONWEALTH OF VIRGINIA
Department of Criminal Justice Services
Private Security Section
P.O. Box 10110, Richmond, VA 23240-9998 (804) 786-4700

Form PSS UA 7

UNARMED SECURITY OFFICER TRAINING CERTIFICATION APPLICATION

FEE: \$15 Non-Refundable

Make checks payable to: Treasurer, Commonwealth of Virginia

INSTRUCTIONS	DCJS USE ONLY
The following must accompany this application: 1. Copy of PSS TCF COMPLETION OF TRAINING FORM 2. Non-refundable fee of \$15 INCOMPLETE APPLICATIONS WILL BE RETURNED.	Application Type: <u>UA</u> Date Received: _____ Fee Codes: <u>170</u> _____ Amount applied: _____ Transaction Number: _____

APPLICANT'S NAME: _____
Last First Middle

SSN: _____ DOB: _____ PLACE OF BIRTH: _____

PHYSICAL ADDRESS: _____
Number and Street City/Town State Zip

MAILING ADDRESS: _____
Number and Street City/Town State Zip

TELEPHONE: () _____ EMPLOYER: _____

DATE OF EMPLOYMENT: _____

Have you ever been convicted of a felony or a misdemeanor in Virginia or any other jurisdiction? ____ Yes ____ No
If yes, on a separate piece of paper, please give full details, including charge, date, place, law enforcement agency involved and dispositions.

Have you ever had a private security license, certificate, registration or permit suspended, revoked or denied in Virginia, or any other jurisdiction? ____ Yes ____ No
If yes, attach an explanation.

Name of Certified School that provided training: _____

Training Session Completed: _____

Date(s) Training Completed: _____

<OVER>

Section 9-183.3, Code of Virginia, requires an investigation to determine the suitability of each unarmed security officer by submission of VSP Form 167 to the Virginia State Police.

Have you as the compliance agent for this applicant's employer received the results of the VSP Form 167 and determined this applicant to be suitable for employment in the Private Security Industry in Virginia? Yes No

Is this Private Security Services Business in compliance with Section 9-183.3, Code of Virginia (1950), as amended for this unarmed officer? Yes No

I certify that the above statements are true and correct to the best of my knowledge, and that I am the compliance agent for the firm which employs this security officer and authorized to submit this information.

Compliance Agent: _____ Licensed Firm: _____ Telephone: _____ Date: _____

AFFIDAVIT

Commonwealth of: _____ County/City of: _____ The undersigned being duly sworn, states that he is the person who executed this application, that the statements herein contained are true, that he has not suppressed any information that might affect this application, and that he has read and understands this affidavit.

Subscribed and sworn to before me this _____ day of _____, 19____

Signature of Applicant: _____ Signature of Notary Public: _____ My Commission Expires: _____



COMMONWEALTH OF VIRGINIA Department of Criminal Justice Services Private Security Section P.O. Box 10110, Richmond, VA 23240-9998 (804) 786-4700

Form PSS WA 74-

APPLICATION FOR EXEMPTION FROM THE COMPULSORY MINIMUM TRAINING STANDARDS for PRIVATE SECURITY SERVICES BUSINESS PERSONNEL

FEE: \$35 Non-Refundable

Make checks payable to: Treasurer, Commonwealth of Virginia

Please Note: No individual may be exempted from all training in any category. There are no total exemptions. The Code of Virginia restricts exemptions to law enforcement officers with five consecutive years of service, and whose termination is not the result of his/her misconduct or incompetence.

Table with 2 columns: INSTRUCTIONS and DCJS USE ONLY. Includes application requirements and fee information.

FULL NAME: _____ SSN: _____ DOB: _____ ADDRESS: _____ TELEPHONE: () _____ FAX: () _____

TRAINING CATEGORY OF EXEMPTION REQUEST

Applicants must include documentation showing completion of an entry-level training course for law enforcement officers.

- Private Investigator Guard Dog Handler Unarmed Security Officer Armed Security Officer/Courier

PRESENT EMPLOYMENT

NAME OF AGENCY/FIRM: _____

POSITION HELD: _____ DATES OF EMPLOYMENT: _____

CERTIFIED PRIVATE SECURITY TRAINING SCHOOL PLANNING TO ATTEND: _____

<OVER>

DCJS ACTION TAKEN box with checkboxes for Approved/Denied, Authorized Signature, and Date.



COMMONWEALTH OF VIRGINIA
Department of Criminal Justice Services
Private Security Section
P.O. Box 10110, Richmond, VA 23240-9998 (804) 786-4700

Form PSS TCF 7-

TRAINING COMPLETION FORM

STUDENT'S NAME: Last First Middle

SSN: TELEPHONE: ()

PHYSICAL ADDRESS: Number and Street Apt. #

City/Town State Zip

CERTIFIED TRAINING SCHOOL: SCHOOL ID #

DATE TRAINING SESSION BEGAN: DATE TRAINING SESSION ENDED:

TYPE(S) OF TRAINING COMPLETED:

ENTRY-LEVEL TRAINING: Check all which apply.

- 01E Core Subjects 02E Private Investigator Subjects 03E Armored Car Subjects 04E Guard Dog Handler Subjects

FIREARMS TRAINING

07E Handgun Training Classroom Range Qualification on Range - Score
Type: Revolver, Caliber Semi-Auto, Caliber

08E Shotgun Training Classroom Range Qualification on Range - Score
Type: Gauge

IN-SERVICE TRAINING: Check all which apply.

- 01I Core Subjects 02I Private Investigator Subjects 03I Armored Car Subjects 04I Guard Dog Handler Subjects

FIREARMS RETRAINING: Check all which apply.

07R Handgun Training Classroom Range Qualification on Range - Score
Type: Revolver, Caliber Semi-Auto, Caliber

08R Shotgun Training Classroom Range Qualification on Range - Score
Type: Gauge

CERTIFICATION

I certify that the above named individual has satisfactorily completed the compulsory minimum training as established by the Virginia Criminal Justice Services Board for each category checked above.

Name of Training Director (Please Type): Telephone: ()

Signature Date:



COMMONWEALTH OF VIRGINIA
Department of Criminal Justice Services
Private Security Section
P.O. Box 10110, Richmond, VA 23240-9998 (804) 786-4700

Form PSS TCF 7-

Private Security Training Completion Roster

Please Note: Only ONE session may be submitted on each roster.

NAME OF CERTIFIED SCHOOL: SCHOOL ID:

TYPE OF TRAINING SESSION:

DATE TRAINING SESSION BEGAN: DATE TRAINING SESSION ENDED:

EXACT LOCATION OF CLASSROOM TRAINING:

EXACT LOCATION OF RANGE TRAINING:

ENTRY-LEVEL TRAINING:

- 01E Core Subjects 02E Private Investigator Subjects 03E Armored Car Subjects 04E Guard Dog Handler Subjects

FIREARMS TRAINING 07E Handgun Training Classroom Range

08E Shotgun Training Classroom Range

IN-SERVICE TRAINING:

- 01I Core Subjects 02I Private Investigator Subjects 03I Armored Car Subjects 04I Guard Dog Handler Subjects

FIREARMS RETRAINING: Check all which apply.

07R Handgun Training Classroom Range

08R Shotgun Training Classroom Range

CERTIFICATION

I certify that each listed individual has satisfactorily completed the training mandated for each category of training specified.

Name of School Director (Please Type): Telephone: ()

Signature Date:

<OVER>



COMMONWEALTH OF VIRGINIA
Department of Criminal Justice Services
Private Security Section
P.O. Box 10110, Richmond, VA 23240-9998 (804) 786-4700

Form PSS IA 7-94

Private Security Instructor Certification Application

FEE: \$91 Non-Refundable

Make checks payable to: Treasurer, Commonwealth of Virginia

Table with 2 columns: INSTRUCTIONS and DCJS USE ONLY. Contains application requirements and fields for Application Type, Date Received, Fee Codes, Amount applied, and Transaction Number.

NAME: Last First Middle

SSN: DOB:

PHYSICAL ADDRESS: Number and Street City/Town State Zip

MAILING ADDRESS: City/Town State Zip

TELEPHONE: () FAX: ()

GENERAL INSTRUCTOR COURSE AND COMPLETION DATE:

FIREARMS INSTRUCTOR COURSE AND COMPLETION DATE:

PRIVATE SECURITY INSTRUCTOR QUALIFICATIONS: Please review before completing reverse side

Section 8.4A1 of the Private Security Regulations lists the following minimum qualifications for private security instructors:

Minimum of three years supervisory experience with a private security services business or with any federal, military, police, state, county or municipal law enforcement agency or in a related field; or

minimum of one year experience as an instructor or teacher at an accredited educational institution or agency in the subject matter for which approval is requested, or in a related field; and

successful completion of an instructor development program, which meets or exceeds standards established by the department, within three years immediately preceding the date of the application; or

successful completion of an instructor development program longer than 3 years prior to the date of application and has provided instruction during the 3 years immediately preceding or has provided instruction in a related field at an institution of higher learning.

Firearms instructors must also have completed a firearms instructor program approved by the department within the 3 years immediately preceding the date of the application.

Persons who have completed an instructor development program or a firearms instructor program and have consistently provided instruction within the preceding 3 years may be eligible for approval.

Attach documentation verifying supervisory or instructor experience and completion of the required instructor development school. <over>

CHECK THE SUBJECTS YOU WISH TO INSTRUCT:

CORE SUBJECTS:

- Administration & Security Orientation Legal Authority Emergency & Defensive Procedures

PRIVATE INVESTIGATOR:

- Orientation and Administration Collecting & Reporting Information Investigative Techniques Criminal Law Interviewing Techniques Civil Law

OTHER:

- Armored Car Subjects Guard Dog Handler Subjects

FIREARMS:

- Handgun Training Shotgun Training

Have you ever been convicted of a felony or a misdemeanor in Virginia or any other jurisdiction?

Yes No If yes, on a separate sheet of paper, please give full details, including charge, date, place law enforcement agency involved and dispositions.

Has a license, certificate, permit or registration issued to you to operate in a Private Security Services Business in Virginia, or any other jurisdiction, ever been suspended, denied or revoked for any reason?

Yes No If yes, attach an explanation.

I have read and understand the Regulations Relating To Private Security Services in effect on the date of this application.

Yes No

The applicant is recommended for approval to instruct in the below named private security training school.

NAME OF APPROVED TRAINING SCHOOL:

ID#:

Signature of Training Director

Date

AFFIDAVIT

Commonwealth of: County/City of:

The undersigned being duly sworn, states that he is the person who executed this application, that the statements herein contained are true, that he has not suppressed any information that might affect this application, and that he has read and understands this affidavit.

Subscribed and sworn to before me this day of 19

Signature of Applicant

My Commission Expires:

Signature of Notary Public

DCJS ACTION TAKEN
Approved Denied
Authorized Signature
Date



COMMONWEALTH OF VIRGINIA
 Department of Criminal Justice Services
 Private Security Section
 P.O. Box 10110, Richmond, VA 23240-9998 (804) 786-4700

Form PSS CI 7-

**Private Security
 General Instructor School Application**

FEE: \$150 Non-Refundable

Make checks payable to: Treasurer, Commonwealth of Virginia

INSTRUCTIONS	DCJS USE ONLY
The following must accompany this application: 1. Official documentation of experience 2. Non-refundable fee of \$150. INCOMPLETE APPLICATIONS WILL BE RETURNED.	Application Type: <u>GI</u> Date Received: _____ Fee Codes: <u>153</u> _____ Amount applied: _____ Transaction Number: _____

FULL NAME: _____
Last First Middle

SSN: _____ DOB: _____

PHYSICAL ADDRESS: _____
Number and Street City/Town State Zip

MAILING ADDRESS: _____
City/Town State Zip

TELEPHONE: Residence: () _____ FAX: () _____

PRIVATE SECURITY SERVICES TRAINING SCHOOL (EMPLOYER): _____
 TRAINING SCHOOL I.D. #: _____

Indicate which session you would like to attend:

First choice: _____
Date Location

Second choice: _____
Date Location

Signature of Applicant Date



COMMONWEALTH OF VIRGINIA
 Department of Criminal Justice Services
 Private Security Section
 P.O. Box 10110, Richmond, VA 23240-9998 (804) 786-4700

Form PSS IR 7-

Private Security Instructor Certification Renewal Application

FEE: \$10 Non-Refundable

Make checks payable to: Treasurer, Commonwealth of Virginia

INSTRUCTIONS	DCJS USE ONLY
The following must accompany this application: 1. Documentation verifying instructor position and development program(s) 2. Non-refundable fee of \$10 INCOMPLETE APPLICATIONS WILL BE RETURNED.	Application Type: <u>IR</u> Date Received: _____ Fee Codes: _____ Amount applied: _____ Transaction Number: _____

APPLICANT'S NAME: _____
Last First Middle

SSN: _____ DOB: _____

PHYSICAL ADDRESS: _____
Number and Street City/Town State Zip

MAILING ADDRESS: _____
City/Town State Zip

TELEPHONE: Residence: () _____ Business: () _____

FAX: () _____

GENERAL INSTRUCTOR COURSE AND COMPLETION DATE: _____

FIREARMS INSTRUCTOR COURSE AND COMPLETION DATE: _____

CERTIFIED PRIVATE SECURITY TRAINING SCHOOL EMPLOYER(S)

Name of Training School _____ ID # _____

Name of Training School _____ ID # _____

Name of Training School _____ ID # _____

CHECK ALL SUBJECTS YOU WISH TO INSTRUCT:

CORE SUBJECTS:

- Administration & Security Orientation Legal Authority Emergency & Defensive Procedures

PRIVATE INVESTIGATOR:

- Orientation and Administration Collecting & Reporting Information Investigative Techniques Criminal Law
 Interviewing Techniques Civil Law

COVERS



Commonwealth of Virginia
Department of Criminal Justice Services
Private Security Section
P.O. Box 10110, Richmond, VA 23240-9998 (804) 786-4700

Form
PSS C-0793

DESCRIBE YOUR COMPLAINT IN DETAIL. Be specific and include dates. Please enclose copies of any contracts or other documents relating to your complaint. *If additional space is needed, attach additional sheets.*

Complaint Form
Private Security Services

Case #: _____
Complaint #: _____
Date Entered: _____

This form is to be used to register with the Department of Criminal Justice Services complaints of possible violations of the private security services license laws and regulations. Complaints should be typewritten or printed clearly. State facts briefly and clearly. Submit any and all documents you have to support your complaint. Complaint must be signed. Please complete both sides of this form. Mail complaint to the above address.

Person Registering Complaint

Name: _____
Address: _____
City: _____ State: _____ Zip Code: _____
Telephone: Home (____) _____ Work (____) _____
Are you the owner, partner or compliance agent of a private security business? Yes No
Complainant: Client Aggrieved Party Other _____

Complaint Registered Against

Name: _____
Company: _____
Address: _____
City: _____ State: _____ Zip Code: _____
Telephone: Home (____) _____ Work (____) _____

Witness(es) (if applicable)

Name: _____
Address: _____
City: _____ State: _____ Zip Code: _____
Telephone: Home (____) _____ Work (____) _____
Name: _____
Address: _____
City: _____ State: _____ Zip Code: _____
Telephone: Home (____) _____ Work (____) _____

NOTE: If additional witnesses are available, list names, addresses, and other pertinent data on a separate sheet

OVER

I certify that the above statements are true and accurate to the best of my recollection

Signature of Complainant

Date

GEORGE MASON UNIVERSITY

REGISTRAR'S NOTICE: George Mason University is exempt from the Administrative Process Act in accordance with § 9-6.14:4.1 A 6 of the Code of Virginia, which exempts educational institutions operated by the Commonwealth.

Title of Regulation: VR 340-01-04. Vending Sales and Solicitation.

Statutory Authority: § 23-91.29 (a) of the Code of Virginia.

Summary:

The proposed regulation is designed to outline the proper vending sales and solicitations policies and procedures for faculty, staff and students.

VR 340-01-04. Vending Sales and Solicitation.

PART I. GENERAL PROVISIONS.

§ 1.1. Scope.

This regulation applies to all George Mason University faculty, staff, and students of the university and members of the general public. This regulation applies to all George Mason University locations, owned and leased, including Fairfax Campus, Arlington Campus, Prince William Institute, and George Mason University at the Center for Innovative Technology.

§ 1.2. Policy statement.

George Mason University facilities are intended primarily for the use of its students, faculty, and staff in their efforts to advance the educational mission of the university. No use shall be permitted which is inconsistent with the mission of the university or which shall result in undue competition with local commercial enterprises; nor shall any funds raised in connection with activities conducted in university facilities be destined to purposes which are exclusively religious or political, with exception of recognized student groups, or to personal profit with exception of university employees running special approved projects and programs, or to further causes which are adverse to the well-being of the university.

This vending policy is intended to promote the following goals: protect students, faculty and staff from commercial and noncommercial exploitation and harassment, preserve the aesthetic atmosphere of the university, avoid disruption of the university's educational mission, and to promote safety and security in the university unions and quad areas.

The responsible officer for interpreting and overseeing this policy shall be the Director of Auxiliary Services or his designee.

This policy shall be implemented in conjunction with the procedures and policy found in VR 340-01-03, Space Utilization and Scheduling Policy and Procedures.

§ 1.3. Definitions.

"Commercial activity" means any sale or offer of sale to secure a direct profit for an individual or nonuniversity sponsored group. This includes activities of nonprofit, faculty or staff organizations or individuals who choose (i) to hire outside vendors for the actual selling; (ii) to sell products on a commission basis; (iii) to raise any money for outside groups; or (iv) to sell for the benefit of any individual (unless a charitable activity is determined by the officer in charge of overseeing this policy). Nonfund-raising activities may be construed as commercial activities if they are regular and recurring. Distribution of literature from reserved tables by individuals or nonuniversity organizations is subject to the fees found in Part IV of this policy (otherwise it is subject to the regulations).

"Fund-raising activity" means the solicitation of voluntary philanthropic contributions and the sale of goods hand crafted or home baked by the sponsoring student, faculty or staff organization; shirts and clothing related to the sponsoring organizations; properly licensed recordings of performances by the sponsoring organizations; goods which promote school spirit (GMU related teams and activities) that are properly licensed by the university (if necessary) and are not available in the university bookstore; pamphlet/literature related to the sponsoring organizations; tickets to events; and lottery or raffle tickets. Sales conducted by a campus organization must be conducted for the sole benefit of said campus organization to be considered noncommercial.

"GMU" or "university" means George Mason University.

PART II. POLICY.

§ 2.1. Vending sales and solicitation; exception.

A. The sale or solicitation of any products, goods, food, beverages, or services on the campus is subject to prior authorization and must be conducted in accordance with regulations established by the university. The solicitation of funds through donations also requires prior authorization.

B. Noncommercial activities may be approved on a limited basis with regard to time, place, safety, and the scope of the activity. Fund-raising activities of campus organizations are treated as noncommercial activities. These activities will occur within the guidelines of Sales by Campus Organizations (see Part IV).

C. Informational activities sponsored by campus organizations and outside organizations are permitted, but are subject to the reasonable guidelines of the authorizing

Proposed Regulations

official and require prior approval. These activities will occur within the guidelines found in Parts IV and V.

D. Commercial activities will occur within the guidelines of Sales by Non-GMU Vendors and Entrepreneurs (see Part V).

E. The on-campus sale of products or solicitation of orders by university employees is considered commercial activity, and as such are prohibited, except as provided in this policy, during work hours. This prohibition includes, but is not limited to, sales of Avon products, Mary Kay products and services, Amway, insurance and investment plans, etc. This includes both the actual sales or order taking, as well as distributing catalogs and literature. Departmental mailboxes and bulletin boards are not to be used to distribute sales information or catalogs. Employees, however, may transact such business during breaks and lunch hours, if coworkers are agreeable.

F. Certain locations or buildings may require their own policies regarding vending and advertising which are not subject to this regulation. For the exception, a detailed request must be submitted to the Director of Auxiliary Enterprises, the responsible office for overseeing this policy, for approval. Any approved exception by the university administration will be attached to this regulation.

PART III SALES BY CAMPUS ORGANIZATIONS.

§ 3.1. Policy on sales by recognized university organizations.

A. University organizations (student and nonstudent) are permitted to conduct fund-raising activities on campus, subject to the provisions of this policy.

B. Noncommercial sales activities which are occasional, noncontinuous and specific in purpose may be approved for designated areas on campus. Regular, recurring activities are prohibited.

C. Sales conducted by campus organizations must be for the benefit of the campus organization to be considered noncommercial activity. Provisions for proceeds from the sale must be included in the request for approval to conduct the sale. Prior approval of the location and time of any sales activity must be received under the provisions of this policy.

D. Sales in which the proceeds result in personal gain to individuals are considered commercial activity and are subject to Part V of the policy. Campus organizations requesting approval to sponsor a vendor on campus may be required to demonstrate the benefits to be received by the campus organization.

E. A representative or representatives of the sponsoring organization must be present at all times during sales

activities involving an outside vendor.

F. Verbal solicitation of sales is strictly prohibited. Sales shall be conducted only at the prompting of the buyer. Harassment of bypassers will not be tolerated.

G. Salespersons may not engage in misrepresentation or fraudulent trade practices nor other activities that are illegal or in violation of university policies.

H. The vendors sponsored by the organization are required to abide by the policies set forth in Part V. Salespersons, the vending company, and the sponsoring organization involved will be held responsible if university policies are violated. Such violations may result in both the campus organization and the company losing the privilege of conducting future sales on campus.

I. Only a limited number of spaces are available. Therefore, the total number of people distributing literature or selling in one place on campus will be limited. Preference for assignment of space will take into account the number of previous approvals for the group or activity, status as a major campus-wide activity, and time constraints of events that may be advertised. Priority will be given to sales activities conducted by students over those conducted by students with vendors.

J. Sales activities will be limited in regards to time, place and manner of the proposed activity as the authorizing official may proscribe. Violation of any of these pre-approved agreements may result in permission for the sale being revoked. Decisions regarding requests will take into account any special circumstances relating to university activities and the burden such activity may place on university security forces and administrative staff.

K. At no time are vending activities to be advertised except in campus newspapers or on approved bulletin boards, unless otherwise indicated in this policy or in writing by an authorizing official. This includes, but is not limited to, the use of E-mail, mailboxes, bulletin boards, fliers on cars, handout fliers to students, sandwich boards, etc.

L. The use of the George Mason University name in association with any product or in the solicitation of donations is strictly prohibited, unless otherwise indicated in writing by the authorizing official.

§ 3.2. Procedures for reserving space for sales and solicitations by campus organizations.

A. Information table (no exchange of money).

1. Complete table space reservation form and return to scheduler at least 10 business days before the date that the organization is requesting.

2. Groups are limited to one six-foot table, unless

other arrangements are made.

3. Tables are retrieved from the Student Union Building I information desk. A representative of the organization must leave a form of identification at the information desk to obtain the table.

B. Reselling/selling of products (exchange of money).

1. Complete table space reservation form and return to scheduler at least 10 business days before the date that the organization is requesting.

2. Groups are limited to one six-foot table, unless other arrangements are made.

3. A representative of the organization must be present through the duration of the sale.

4. If the organization is selling products made by the organization, there is no fee for selling the items.

5. If the organization is selling products for another company or is sponsoring a non-GMU business to sell products on campus, it shall be subject to Part IV, Sales by Non-GMU Vendors and Entrepreneurs.

6. Whenever a student, faculty or staff organization sells a product or service on campus, a Commercial Endeavors Form must be completed and filed with the fiscal assistant.

7. An authorized representative of the university must sign all contracts between the vendor and a recognized student organization.

8. All vendors must comply with all state and municipal laws. (See procedures for vendors.)

§ 3.3. Fees.

Groups may reserve a maximum of six dates per semester free of charge unless subject to the provisions and fees in Part IV, Sales by Non-GMU Vendors and Entrepreneurs.

**PART IV.
SALES BY NON-GMU VENDORS AND
ENTREPRENEURS (NON-UNIVERSITY
ORGANIZATIONS).**

§ 4.1. Sales by nonuniversity organizations.

A. These regulations apply to vendors selling goods or services on campus independently or if sponsored by a recognized student organization. These regulations also apply to outside organizations on campus independently or sponsored by an organization to distribute literature or solicit memberships or both. Vendors wanting to distribute newspapers are regulated by Part V.

B. Commercial sales activities which are occasional and specific in purpose may be approved for designated areas on campus. Commercial sales activity shall not be conducted in residence halls or academic buildings. Regular, recurring activities are prohibited. Vendors are permitted to conduct sales activities on campus subject to the provisions of this policy.

C. All vendors must conform to the laws of the Commonwealth of Virginia.

D. A representative or representatives of the vendor must be present at all times during sales activities involving an outside vendor.

E. Verbal solicitation of sales is strictly prohibited. Sales shall be conducted only at the prompting of the buyer. Harassment of bypassers will not be tolerated. This also applies to the distribution of literature.

F. Salespersons may not engage in misrepresentation or fraudulent trade practices nor other activities that are illegal or in violation of university policies.

G. All vendors must obtain a Fairfax vending license. A copy of the license should be attached to the George Mason vending application. On the day of sales at George Mason, the vending license should be displayed. This does not apply to vendors who distribute literature or solicit memberships.

H. Items must be confined to two six-foot tables, unless otherwise indicated. All other materials must be placed under the tables.

I. The use of the George Mason University name in association with any product or in the solicitation of donations is strictly prohibited, unless otherwise indicated.

J. Unless otherwise indicated, vendors are expected to operate between the hours of 9 a.m. and 7 p.m. Vendors should not arrive for setup after 10 a.m.

K. The Office of University Unions and Student Activities reserves the right to assign vendors to specific locations in the union building and on the quad.

L. University approved faculty and staff organizations will invite vendors to participate in the vendors program based on the following criteria:

1. The products or services that are being sold are unique and not generally available in the local commercial market or from existing campus commercial outlets.

2. The products or services being sold will not conflict with the educational mission of the university.

3. The products or services being sold should be able to relate to the cultural, education, or recreational

Proposed Regulations

programs at the university.

M. Subsections A through L of this section shall not apply to the free distribution of literature or information, if such distribution is not commercially motivated.

N. At no time shall GMU grant or deny authorization of distribution of information on its content, unless such distribution is commercially motivated. However, the distribution of said material shall be subject to reasonable time, place and manner restrictions.

O. Only a limited number of spaces are available to non-GMU vendors. Preference for assignment of space will take into account the number of previous approvals for the group or activity, status as a major campus-wide activity, and time constraints of events that may be advertised. Priority will be given to sales activities conducted by students, faculty or staff (alone or in conjunction with vendors) over those conducted solely by vendors.

P. Sales activities will be limited in regards to time, place and manner of the proposed activity as the authorizing official may proscribe. Violation of any of these pre-approved agreements may result in permission for the sale being revoked. Decisions regarding requests will take into account any special circumstances relating to university activities and the burden such activity may place on university security forces and administrative staff.

Q. At no time are vending activities to be advertised except in campus newspapers or on approved bulletin boards, unless otherwise indicated in writing by an authorizing official. This includes, but is not limited to, the use of E-Mail, mailboxes, bulletin boards, fliers on cars, handout fliers to students, sandwich boards, etc.

R. These vending regulations may not apply to vendors in special campus-sponsored events, as determined by the officer in charge of overseeing this regulation, which occur from time-to-time on campus. However, those events may have their own regulations which apply to vendors. These regulations must be submitted for review by and approval from the authorized university official in charge of overseeing this policy.

§ 4.2. Procedures for reserving space for sales and solicitations by vendors.

A. Information table only (no exchange of money).

1. Complete table space reservation form and return to scheduler at least 10 business days before the date that the vendor is requesting.
2. Vendors are limited to two six-foot tables, unless other arrangements are made.
3. Tables are retrieved from the Student Union

Building I information desk. A representative of the vendor must leave a form of identification at the information desk to obtain the table.

B. Reselling/selling of products (exchange of money).

1. Complete table space reservation form and return to scheduler at least 10 business days before the date that the vendor is requesting.
2. Vendors are limited to two six-foot tables, unless other arrangements are made.
3. A representative of the vendor must be present through the duration of the sale.
4. Whenever a vendor sells a product or service on campus, a Commercial Endeavors Form must be completed and filed with the fiscal assistant.

§ 4.3. Fees.

A. Vendors may reserve a maximum of six dates per semester at a rate of \$100 per day. If an electrical, phone, gas, water, etc., hook-up is required, then the rate shall be the current prevailing rates. The utility rates charged will be based upon prevailing utility costs furnished by the Director of the Physical Plant. Telephone service shall be coordinated with the university's Office of Telecommunications and Client Support.

B. Payment should be made in the form of a certified check or money order on the morning of the reservation to the University Unions and Student Activities Office designee.

C. These fees apply to informational (no exchange of money) as well as commercial activities (exchange of money).

§ 4.4. Waiver of Part IV.

This part can be waived at the discretion of the authorized university officer (or his designee) in charge of overseeing this policy.

PART V. SALES AND DISTRIBUTION OF NEWSPAPERS.

§ 5.1. Director of Auxiliary Enterprises.

The Director of Auxiliary Enterprises is charged with establishing a reasonable number of places where any publication—with or without advertisements, student/nonstudent written or distributed, literary or otherwise—may be distributed, subject to approval. This approval will be contingent only upon available space and safety concerns, and not upon content. When distribution is denied due to space limitations, the Director of Auxiliary Enterprises will provide alternative places of distribution.

§ 5.2. The bookstores.

The manager or their agents of the bookstore have the responsibility for determining which publications will be distributed and sold within the bookstores (subject to contractual restrictions).

§ 5.3. Limitations on distribution.

Students, faculty, staff and visitors may distribute literature in person, subject to approval by the authorizing university official in charge of overseeing this policy, at the following locations: Student Unions I and II, Arlington Campus and the Quad at the Fairfax Campus between the following hours of 9 a.m. to 5 p.m., Monday through Friday. Approval of distribution of literature under this part is subject only to space limitations and safety concerns and not to the content of the literature to be distributed. If there is a denial, the authorized university official in charge of overseeing this policy shall find another place or set up another time that the person may distribute literature. At no time shall any person push literature onto unwilling recipients. Further, applicable litter laws will be enforced against any organization or individual carelessly distributing literature on campus.

PART VI. USE OF BULLETIN BOARDS AND POSTING MATERIAL FOR ADVERTISING.

§ 6.1. Use of bulletin boards and posting material for advertising.

A. No materials shall be posted on trees, light and lamp posts/poles, walkways, windows, walls, doors, or glass panels either inside or outside university buildings. The only exceptions are materials relating to fire, health, or safety (such materials must be approved for posting by the Department of Risk Management); materials posted on bulletin boards; and cars pursuant to the poster policy, Number 54.

B. Bulletin boards are provided for the posting of signs, papers, posters, advertisements, etc., subject to the following:

1. Assigned bulletin boards.

a. Bulletin boards found in academic areas are assigned for the exclusive use of academic departments (within the department office) and Information Services (within public areas).

b. Assigned bulletin boards are labeled and are the responsibility of the department or Information Services to which they are assigned.

c. No materials may be posted on assigned bulletin boards without the authorization of the department or Information Services.

d. The department or Information Services is responsible for removal of unauthorized materials and for keeping posted materials updated.

2. General bulletin boards.

a. General bulletin boards are posted in various campus locations and are available for the use and benefit of the campus community.

b. Material posted on general bulletin boards is subject to approval by the Office of Information Services.

c. Areas designated for the posting of materials are designed to provide a means to advertise campus events, publicize services for students, and inform students, faculty, and staff of off-campus activities. All individuals and organizations posting notices are expected to design and display their materials in a manner respectful of the diverse beliefs, opinions, and attitudes that exist in an institution of higher learning. Posted items must be educational or informative in nature. Items advocating an infraction of any law, ordinance, or official university policy or regulation may not be displayed and are subject to removal by the Office of Information Services.

PART VII. AMENDMENTS AND ADDITIONS.

§ 7.1. Amendments and additions.

A. All amendments and additions to the Vendor Sales and Solicitation policy are to be reviewed and approved by the Provost, the Office of the Executive Vice President for Administration and the Office of the Executive Vice President for Finance and Planning.

B. This policy shall be reviewed and revised, if necessary, annually.

VA.R. Doc. No. R95-268; Filed January 31, 1995, 2:55 p.m.

Proposed Regulations

University Unions and Student Activities
George Mason University

Today's Date _____

Student Commercial Endeavors Agreement

Student Organization or Sponsor: _____

Mailing Address _____

Name of Registrant: _____

Mailing Address: _____

Goods or Services to be Sold: _____

Requested Campus Location: _____

Fees or Prices Charged to Customers: _____

In consideration of being allowed to sell
I (we) agree to the following as checked below: _____

1. To open a separate checking account apart from my (our) personal checking account(s) for the receipt and disbursement of all funds that I (we) procure.
2. To furnish individual receipts to every purchaser. This receipt should clearly state the name, address, and telephone number of the entrepreneur and the delivery date of the merchandise.
3. To accept no money in advance of delivery and when transactions occur, to furnish each purchaser with a standard receipt.
4. To provide a completed event/sales audit sheet to the fiscal Assistant in Student Activities and University Unions within five days after the date of the sale/event.

I agree to sell only in the following locations: _____

on these dates: _____

In each case I guarantee on a money-back basis for the item or service I am selling if it does not meet with the expectations of the purchaser.

I further understand that the granting of this privilege to sell in a specific location does not carry with it University endorsement or guarantee and that the University accepts no responsibility for a customer's default.

Registrant Signature _____ Date _____

UUSA Approval _____ Date _____

white copy - Organization pink and yellow copy - UUSA staff, 252 K, SUB I

APPLICATION FOR AUTHORIZATION TO VEND AT GEORGE MASON UNIVERSITY

GENERAL INFORMATION

- 1. Company Name _____
- 2. Company Address _____
- 3. Company Telephone Number _____
- 4. Local Contact Person _____
- 5. Local Telephone Number _____
- 6. Local Address _____
- 7. Description of Product (Please include pictures, samples or brochures when possible.)

- 8. Please attach a copy of your Fairfax County Vending license.
For licensure information contact: Consumer Affairs, 12000 Government Center Pkwy, Suite 127
Fairfax, Virginia 22035 Telephone: 703-222-8432

TERMS AND CONDITIONS

If selected to vend at George Mason University, I agree on behalf of my organization/business to the following terms and conditions:

- 1. I, the undersigned, agree to indemnify, defend, and hold harmless George Mason University from any liability, damage, expense, cause of action, suits, claims, judgments, and costs of defense arising from injury to persons or personal property which arise out of any act, failure to act, or negligence of the organization, its agents, or employees. All personal property of the organization, its employees agents, licensees, servants, clients, members, guests, or trespassers, shall be at the sole risk of said parties; George Mason University shall not be liable to any such person or party for any damage or loss to personal property thereof.
- 2. I, the undersigned, will maintain a bond or insurance coverage sufficient to ensure repair or replacement for all George Mason University property, and the property of its employees, that may be lost or damaged as a result of the event.
- 3. I, the undersigned, will indemnify, defend and save harmless George Mason University from any liability, damage, expense, cause of action, suits, claims, judgments and costs of defense arising from any liens, bills, charges, credits, and other expenses incurred by or placed against me or the company/business for which I am an agent.
- 4. I, the undersigned, agree to prominently display on my reserved tables the following notice:

THE VENDOR OPERATES AS AN INDEPENDENT BUSINESS ENTITY AND IS NOT AFFILIATED WITH GEORGE MASON UNIVERSITY. GEORGE MASON UNIVERSITY DOES NOT ENDORSE OR RECOMMEND THE VENDOR AND ASSUMES NO RESPONSIBILITY FOR ANY GOODS OR SERVICES PURCHASED FROM THE VENDOR.

SIGNATURE

DATE

TABLE RESERVATION FORM

University Unions and Student Activities

- 1. Name of Organization/Department _____
- 2. Contact Name _____
- 3. Telephone _____
- 4. Contact Address _____
- 5. Date(s) Requested _____
- 6. Please describe the items that will be distributed from your table _____

- 7. Will you require a TV/VCR setup? _____

All recognized student organizations and GMU departments may schedule one table for up to five consecutive days. This table reservation only confirms the use of one table and the space for seating around the table, not the entire lobby or quad. All student organizations and departments are responsible for retrieving from and returning their table to storage. A representative of the organization or department must be present at the table at all times. All tables are assigned to specific spaces.

I have read and understand the policies and procedures written above.

Signature _____ Date _____

FOR OFFICE USE ONLY

Date Form Received _____

Form Received by _____

Table Assignment Number(s) _____

Proposed Regulations

DEPARTMENT OF MEDICAL ASSISTANCE SERVICES (BOARD OF)

Title of Regulation: VR 460-03-4.1940:1. Nursing Home Payment System (Smaller Nursing Facility Indirect Ceiling Adjustment).

Statutory Authority: § 32.1-325 of the Code of Virginia.

Public Hearing Date: N/A - Written comments may be submitted through April 21, 1995.

(See Calendar of Events section for additional information)

Basis and Authority: Section 32.1-325 of the Code of Virginia grants to the Board of Medical Assistance Services (BMAS) the authority to administer and amend the Plan for Medical Assistance. The Code also provides in § 9-6.14:9 of the Administrative Process Act (APA) for this agency's promulgation of proposed regulations subject to the Governor's review.

This action was mandated by the 1994 General Assembly in item 396K of the Appropriation Act.

Purpose: The purpose of this proposal is to comply with the 1994 Virginia Acts of Assembly which appropriated funds for use in increasing the indirect patient care operating per diem ceiling for small nursing facilities.

Summary and Analysis: Under current DMAS policy, the indirect patient care operating cost ceiling is adjusted only to reflect geographical peer groups and is not modified to recognize any differences in the bed size of facilities. The Virginia Health Care Association (VHCA) and the Joint Legislative Audit and Review Commission (JLARC) have recommended that DMAS adjust reimbursement to nursing facilities to reflect the relatively higher indirect operating costs incurred in operating a smaller facility. Based upon information from these organizations, the 1994 General Assembly appropriated funds for this purpose and directed DMAS to work with the VHCA to develop an appropriate methodology.

DMAS analyzed appropriate adjustments to the indirect patient care operating ceiling based upon the number of beds within the nursing facility. From this analysis, DMAS, in cooperation with the VHCA, developed a rate change methodology. This regulatory change will increase the indirect patient care operating cost ceiling for smaller nursing facilities. For the purposes of this regulatory action, both DMAS and the nursing home industry have agreed that a smaller nursing facility is one with 90 or fewer beds.

Effective July 1, 1995, existing indirect peer group ceilings of smaller nursing facilities will be adjusted by the predetermined amount identified in the regulation. In subsequent fiscal years, the facilities' adjusted ceilings will be increased according to a formula reflecting the increase in cost due to inflation.

Issues: Nursing facilities with a smaller number of beds are inherently less efficient due to economies of scale and an increased indirect patient care operating ceiling is appropriate in order to be reimbursed for these increased costs. Since the VHCA originally proposed this legislation, the nursing facility industry supports these changes. DMAS has consulted with the nursing home industry in development of the procedures to be implemented. The advantage of this action is more appropriate reimbursement for smaller nursing facilities. The agency projects no negative issues involved in implementing this proposed change.

Impact:

Projected Number of Entities Affected. There are currently 105 nursing facilities in Virginia with 90 or fewer licensed beds. The smaller facilities represent 42% of all nursing facilities in the Commonwealth and serve predominantly rural areas. These nursing facilities have a total of 5,641 (or 20% of the total number) beds serving Medicaid recipients.

Identity of Localities and Types of Businesses Particularly Affected. This regulation will affect nursing facilities statewide which have a number of licensed beds of 90 or less. These facilities will be able to be reimbursed higher amounts for indirect patient care operating costs. There are no localities which are uniquely affected by these regulations as they apply statewide.

Projected Persons and Employment Positions Affected. No persons or employment positions will be specifically affected by this regulation.

Projected Costs to Affected Entities to Comply. There is no cost to the affected entities. There is no additional cost to the Commonwealth to implement this proposed change as it will be incorporated into the already existing cost settlement process.

Projected Cost to Commonwealth to Implement/Enforce. The projected cost to the Commonwealth for this increased reimbursement amount will be \$1,078,152 (\$539,076 GF and \$539,076 NGF).

Source of Funds. The general funds for this action have been appropriated by the 1994 General Assembly in Chapter 966, Item 396 K of the Acts of the Assembly for the purpose of effecting an increase in the indirect patient care operating ceiling for smaller nursing facilities.

Summary:

These proposed amendments conform the State Plan for Medical Assistance to the 1994 Virginia Acts of the Assembly, which appropriated funds for use in increasing the indirect patient care operating per diem ceilings for small nursing facilities.

VR 460-03-4.1940:1. Nursing Home Payment System.

PART I. INTRODUCTION.

§ 1.1. General.

Effective October 1, 1990, the payment methodology for Nursing Facility (NF) reimbursement by the Virginia Department of Medical Assistance Services (DMAS) is set forth in the following document. The formula provides for incentive payments to efficiently operated NFs and contains payment limitations for those NFs operating less efficiently. A cost efficiency incentive encourages cost containment by allowing the provider to retain a percentage of the difference between the prospectively determined operating cost rate and the ceiling.

§ 1.2. Cost components.

Three separate cost components are used: plant cost, operating cost and nurse aide training and competency evaluation program and competency evaluation program (NATCEPs) costs. The rates, which are determined on a facility-by-facility basis, shall be based on annual cost reports filed by each provider.

§ 1.3. Ceiling limitations.

In determining the ceiling limitations, there shall be direct patient care medians established for NFs in the Virginia portion of the Washington DC-MD-VA Metropolitan Statistical Area (MSA), the Richmond-Petersburg Metropolitan Statistical Area (MSA), and in the rest of the state. There shall be indirect patient care medians established for NFs in the Virginia portion of the Washington DC-MD-VA MSA, and in the rest of the state. The Washington DC-MD-VA MSA and the Richmond-Petersburg MSA shall include those cities and counties as listed and changed from time to time by the Health Care Financing Administration (HCFA). A NF located in a jurisdiction which HCFA adds to or removes from the Washington DC-MD-VA MSA or the Richmond-Petersburg MSA shall be placed in its new peer group, for purposes of reimbursement, at the beginning of its next fiscal year following the effective date of HCFA's final rule.

§ 1.4. Exemptions.

Institutions for mental diseases providing nursing services for individuals age 65 and older shall be exempt from the prospective payment system as defined in §§ 2.6, 2.7, 2.8, 2.19, and 2.25, as are mental retardation facilities. All other sections of this payment system relating to reimbursable cost limitations shall apply. These facilities shall continue to be reimbursed retrospectively on the basis of reasonable costs in accordance with Medicare and Medicaid principles of reimbursement. Reimbursement to Intermediate Care Facilities for the Mentally Retarded (ICF/MR) shall be limited to the highest rate paid to a state ICF/MR institution, approved each July 1 by DMAS.

§ 1.5. Medicare principles of reimbursement.

Except as specifically modified herein, Medicare principles of reimbursement, as amended from time to time, shall be used to establish the allowable costs in the rate calculations. Allowable costs must be classified in accordance with the DMAS uniform chart of accounts (see VR 460-03-4.1941, Uniform Expense Classification) and must be identifiable and verified by contemporaneous documentation.

All matters of reimbursement which are part of the DMAS reimbursement system shall supercede Medicare principles of reimbursement. Wherever the DMAS reimbursement system conflicts with Medicare principles of reimbursement, the DMAS reimbursement system shall take precedence. Appendices are a part of the DMAS reimbursement system.

PART II. RATE DETERMINATION PROCEDURES.

Article 1. Plant Cost Component.

§ 2.1. Plant cost.

A. Plant cost shall include actual allowable depreciation, interest, rent or lease payments for buildings and equipment as well as property insurance, property taxes and debt financing costs allowable under Medicare principles of reimbursement or as defined herein.

B. To calculate the reimbursement rate, plant cost shall be converted to a per diem amount by dividing it by the greater of actual patient days or the number of patient days computed as 95% of the daily licensed bed complement during the applicable cost reporting period.

C. For NFs of 30 beds or less, to calculate the reimbursement rate, the number of patient days will be computed as not less than 85% of the daily licensed bed complement.

D. Costs related to equipment and portions of a building/facility not available for patient care related activities are nonreimbursable plant costs.

§ 2.2. New nursing facilities and bed additions.

A. 1. Providers shall be required to obtain three competitive bids when (i) constructing a new physical plant or renovating a section of the plant when changing the licensed bed capacity, and (ii) purchasing fixed equipment or major movable equipment related to such projects.

2. All bids must be obtained in an open competitive market manner, and subject to disclosure to DMAS prior to initial rate setting. (Related parties see § 2.10.)

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B. Reimbursable costs for building and fixed equipment shall be based upon the 3/4 (25% of the surveyed projects with costs above the median, 75% with costs below the median) square foot costs for NFs published annually in the R.S. Means Building Construction Cost Data as adjusted by the appropriate R.S. Means Square Foot Costs "Location Factor" for Virginia for the locality in which the NF is located. Where the specific location is not listed in the R.S. Means Square Foot Costs "Location Factor" for Virginia, the facility's zip code shall be used to determine the appropriate locality factor from the U.S. Postal Services National Five Digit Zip Code for Virginia and the R.S. Means Square Foot Costs "Location Factors." The provider shall have the option of selecting the construction cost limit which is effective on the date the Certificate of Public Need (COPN) is issued or the date the NF is licensed. Total cost shall be calculated by multiplying the above 3/4 square foot cost by 385 square feet (the average per bed square footage). Total costs for building additions shall be calculated by multiplying the square footage of the project by the applicable components of the construction cost in the R.S. Means Square Foot Costs, not to exceed the total per bed cost for a new NF. Reasonable limits for renovations shall be determined by the appropriate costs in the R.S. Means Repair and Remodeling Cost Data, not to exceed the total R.S. Means Building Construction Cost Data 3/4 square foot costs for nursing homes.

C. New NFs and bed additions to existing NFs must have prior approval under the state's Certificate of Public Need Law and Licensure regulations in order to receive Medicaid reimbursement.

D. However in no case shall allowable reimbursed costs exceed 110% of the amounts approved in the original COPN, or 100% of the amounts approved in the original COPN as modified by any "significant change" COPN, where a provider has satisfied the requirements of the State Department of Health with respect to obtaining prior written approval for a "significant change" to a COPN which has previously been issued.

§ 2.3. Major capital expenditures.

A. Major capital expenditures include, but are not limited to, major renovations (without bed increase), additions, modernization, other renovations, upgrading to new standards, and equipment purchases. Major capital expenditures shall be any capital expenditures costing \$100,000 or more each, in aggregate for like items, or in aggregate for a particular project. These include purchases of similar type equipment or like items within a one calendar year period (not necessarily the provider's reporting period).

B. Providers (including related organizations as defined in § 2.10) shall be required to obtain three competitive bids and if applicable, a Certificate of Public Need before initiating any major capital expenditures. All bids must be obtained in an open competitive manner, and subject to

disclosure to the DMAS prior to initial rate setting. (Related parties see § 2.10.)

C. Useful life shall be determined by the American Hospital Association's Estimated Useful Lives of Depreciable Hospital Assets (AHA). If the item is not included in the AHA guidelines, reasonableness shall be applied to determine useful life.

D. Major capital additions, modernization, renovations, and costs associated with upgrading the NF to new standards shall be subject to cost limitations based upon the applicable components of the construction cost limits determined in accordance with § 2.2 B.

§ 2.4. Financing.

A. The DMAS shall continue its policy to disallow cost increases due to the refinancing of a mortgage debt, except when required by the mortgage holder to finance expansions or renovations. Refinancing shall also be permitted in cases where refinancing would produce a lower interest rate and result in a cost savings. The total net aggregate allowable costs incurred for all cost reporting periods related to the refinancing cannot exceed the total net aggregate costs that would have been allowable had the refinancing not occurred.

1. Refinancing incentive. Effective July 1, 1991, for mortgages refinanced on or after that date, the DMAS will pay a refinancing incentive to encourage nursing facilities to refinance fixed-rate, fixed-term mortgage debt when such arrangements would benefit both the Commonwealth and the providers. The refinancing incentive payments will be made for the 10-year period following an allowable refinancing action, or through the end of the refinancing period should the loan be less than 10 years, subject to a savings being realized by application of the refinancing calculation for each of these years. The refinancing incentive payment shall be computed on the net savings from such refinancing applicable to each provider cost reporting period. Interest expense and amortization of loan costs on mortgage debt applicable to the cost report period for mortgage debt which is refinanced shall be compared to the interest expense and amortization of loan costs on the new mortgage debt for the cost reporting period.

2. Calculation of refinancing incentive. The incentive shall be computed by calculating two index numbers, the old debt financing index and the new debt financing index. The old debt financing index shall be computed by multiplying the term (months) which would have been remaining on the old debt at the end of the provider's cost report period by the interest rate for the old debt. The new debt index shall be computed by multiplying the remaining term (months) of the new debt at the end of the cost reporting period by the new interest rate. The new debt index shall be divided by the old debt index tr

achieve a savings ratio for the period. The savings ratio shall be subtracted from a factor of 1 to determine the refinancing incentive factor.

3. Calculation of net savings. The gross savings for the period shall be computed by subtracting the allowable new debt interest for the period from the allowable old debt interest for the period. The net savings for the period shall be computed by subtracting allowable new loan costs for the period from allowable gross savings applicable to the period. Any remaining unamortized old loan costs may be recovered in full to the extent of net savings produced for the period.

4. Calculation of incentive amount. The net savings for the period, after deduction of any unamortized old loan and debt cancellation costs, shall be multiplied by the refinancing incentive factor to determine the refinancing incentive amount. The result shall be the incentive payment for the cost reporting period, which shall be included in the cost report settlement, subject to per diem computations under § 2.1 B, 2.1 C, and 2.14 A.

5. Where a savings is produced by a provider refinancing his old mortgage for a longer time period, the DMAS shall calculate the refinancing incentive and payment in accordance with §§ 2.4 A 1 through 2.4 A 4 for the incentive period. Should the calculation produce both positive and negative incentives, the provider's total incentive payments shall not exceed any net positive amount for the entire incentive period. Where a savings is produced by refinancing with either a principal balloon payment at the end of the refinancing period, or a variable interest rate, no incentive payment will be made, since the true savings to the Commonwealth cannot be accurately computed.

6. All refinancings must be supported by adequate and verifiable documentation and allowable under DMAS regulations to receive the refinancing savings incentive.

7. (Effective March 1, 1995) Balloon loan reimbursement. This regulation applies to the construction and acquisition of nursing facilities (as defined in §§ 2.2 and 2.5) and major capital expenditures (as defined in § 2.3) that are financed with balloon loans. A balloon loan requires periodic payments to be made that do not fully amortize the principal balance over the term of the loan; the remaining balance must be repaid at the end of a specified time period. Demand notes and loans with call provisions shall not be deemed to be balloon loans.

a. Incurred interest. Reimbursement for interest of a balloon loan and subsequent refinancings shall be considered a variable interest rate loan under § 2.4 B.

(1) A standard amortization period of 27 years, from the inception date of the original balloon loan, must be computed by the provider and submitted to DMAS and used as the amortization period for loans for renovation, construction, or purchase of a nursing facility.

(2) A standard amortization period of 15 years, from the inception of the original balloon loan, must be used as the amortization period for loans on furniture, fixtures, and equipment.

(3) A loan which is used partially for the acquisition of buildings, land, and land improvements and partially for the purchase of furniture, fixtures, and equipment must be prorated for the purpose of determining the amortization period.

b. The allowable interest rate shall be limited to the interest rate upper limit in effect on the date of the original balloon loan, unless another rate is allowable under § 2.4 B.

c. Financing costs. The limitations on financing costs set forth in § 2.4 B shall apply to balloon loans. Financing costs exceeding the limitations set forth in these sections shall be allowed to the extent that such excess financing costs may be offset by any available interest savings.

(1) A 27-year amortization period must be used for deferred financing costs associated with the construction or purchase of a nursing facility.

(2) A 15-year amortization period must be used for deferred financing costs associated with financing of furniture, fixtures, and movable equipment.

(3) Financing costs associated with a loan used partially for the acquisition of buildings, land, and land improvements and partially for the purchase of furniture, fixtures, and equipment must be prorated for determination of the amortization period.

d. Cumulative credit computation. The computation of allowable interest and financing costs for balloon loans shall be calculated using the following procedures:

(1) A standard amortization schedule of allowable costs based upon the upper limits for interest and financing costs shall be computed by the provider and submitted to DMAS for the applicable 27-year or 15-year periods on the original balloon loan.

(2) For each cost reporting period, the provider shall be allowed the lesser of loan costs (interest and financing costs) computed in accordance with subdivision 7 a of this subsection, or the actual loan costs incurred during the period.

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(3) To the extent that there is a "credit" created by the actual loan costs being less than the loan costs computed on the amortization schedule in some periods, the provider may recover any otherwise allowable costs which result from the refinancing, extension, or renewal of the balloon loan, and any loan costs which have been disallowed because the loan costs are over the limitation for some periods. However, the cumulative actual loan cost reimbursement may not exceed the cumulative allowable loan cost as computed on the amortization schedule to that date.

(4) In refinancing or refinancings of the original balloon loan which involve additional borrowings in excess of the balance due on the original balloon loan, the excess over the balance due on the balloon loan shall be treated as new debt subject to the DMAS financing policies and regulations. Any interest and financing costs incurred on the refinancing shall be allocated pro rata between the refinancing of the balloon loan and the new debt.

(5) In the event of a sale of the facility, any unused balance of cumulative credit or cumulative provider excess costs would follow the balloon loan or the refinancing of the balloon loan if the balloon loan or its refinancing is paid by the buyer under the same terms as previously paid by the seller. Examples of this are (i) the buyer assumes the existing instrument containing the same rates and terms by the purchaser; or (ii) the balance of the balloon loan or its refinancings is financed by the seller to the buyer under the same rates and terms of the existing loan as part of the sale of the facility. If the loan is otherwise paid in full at any time and the facility is sold before the full 27-year or 15-year amortization period has expired, the balance of unused cumulative credit or cumulative provider excess costs shall expire and not be considered an allowable cost.

e. In accordance with § 2.4 A, no refinancing incentive shall be available for refinancings, extensions, or renewals of balloon loans.

f. The balloon loan and refinancing of the balloon loan shall be subject to all requirements for allowable borrowing, except as otherwise provided by this subsection.

B. Interest rate upper limit.

Financing for all NFs and expansions which require a COPN and all renovations and purchases shall be subject to the following limitations:

1. Interest expenses for debt financing which is exempt from federal income taxes shall be limited to:

The average weekly rates for Baa municipal rated

bonds as published in Cragie Incorporated Municipal Finance Newsletter as published weekly (Representative reoffering from general obligation bonds), plus one percentage point (100 basis points), during the week in which commitment for construction financing or closing for permanent financing takes place.

2. a. Effective on and after July 1, 1990, the interest rate upper limit for debt financing by NFs that are subject to prospective reimbursement shall be the average of the rate for 10-year and 30-year U.S. Treasury Constant Maturities, as published in the weekly Federal Reserve Statistical Release (H.15), plus two percentage points (200 basis points).

This limit (i) shall apply only to debt financing which is not exempt from federal income tax, and (ii) shall not be available to NF's which are eligible for such tax exempt financing unless and until a NF has demonstrated to the DMAS that the NF failed, in a good faith effort, to obtain any available debt financing which is exempt from federal income tax. For construction financing, the limit shall be determined as of the date on which commitment takes place. For permanent financing, the limit shall be determined as of the date of closing. The limit shall apply to allowable interest expenses during the term of the financing.

b. The new interest rate upper limit shall also apply, effective July 1, 1990, to construction financing committed to or permanent financing closed after December 31, 1986, but before July 1, 1990, which is not exempt from federal income tax. The limit shall be determined as of July 1, 1990, and shall apply to allowable interest expenses for the term of the financing remaining on or after July 1, 1990.

3. Variable interest rate upper limit.

a. The limitation set forth in §§ 2.4 B 1 and 2.4 B 2 shall be applied to debt financing which bears a variable interest rate as follows. The interest rate upper limit shall be determined on the date on which commitment for construction financing or closing for permanent financing takes place, and shall apply to allowable interest expenses during the term of such financing as if a fixed interest rate for the financing period had been obtained. A "fixed rate loan amortization schedule" shall be created for the loan period, using the interest rate cap in effect on the date of commitment for construction financing or the date of closing for permanent financing.

b. If the interest rate for any cost reporting period is below the limit determined in subdivision 3 a above, no adjustment will be made to the provider's interest expense for that period, and a "carryover

credit" to the extent of the amount allowable under the "fixed rate loan amortization schedule" will be created, but not paid. If the interest rate in a future cost reporting period is above the limit determined in subdivision 3 a above, the provider will be paid this "carryover credit" from prior period(s), not to exceed the cumulative carryover credit or his actual cost, whichever is less.

c. The provider shall be responsible for preparing a verifiable and auditable schedule to support cumulative computations of interest claimed under the "carryover credit," and shall submit such a schedule with each cost report.

4. The limitation set forth in § 2.4 B 1, 2, and 3 shall be applicable to financing for land, buildings, fixed equipment, major movable equipment, working capital for construction and permanent financing.

5. Where bond issues are used as a source of financing, the date of sale shall be considered as the date of closing.

6. The aggregate of the following costs shall be limited to 5.0% of the total allowable project costs:

- a. Examination Fees
- b. Guarantee Fees
- c. Financing Expenses (service fees, placement fees, feasibility studies, etc.)
- d. Underwriters Discounts
- e. Loan Points

7. The aggregate of the following financing costs shall be limited to 2.0% of the total allowable project costs:

- a. Legal Fees
- b. Cost Certification Fees
- c. Title and Recording Costs
- d. Printing and Engraving Costs
- e. Rating Agency Fees

C. DMAS shall allow costs associated with mortgage life insurance premiums in accordance with § 2130 of the HCFA-Pub. 15, Provider Reimbursement Manual (PRM-15).

D. Interest expense on a debt service reserve fund is an allowable expense if required by the terms of the financing agreement. However, interest income resulting from such fund shall be used by DMAS to offset interest expense.

§ 2.5. Purchases of nursing facilities (NF).

A. In the event of a sale of a NF, the purchaser must have a current license and certification to receive DMAS reimbursement as a provider.

B. The following reimbursement principles shall apply to the purchase of a NF:

1. The allowable cost of a bona fide sale of a facility (whether or not the parties to the sale were, are, or will be providers of Medicaid services) shall be the lowest of the sales price, the replacement cost value determined by independent appraisal, or the limitations of Part XVI - Revaluation of Assets. Revaluation of assets shall be permitted only when a bona fide sale of assets occurs.

2. Notwithstanding the provisions of § 2.10, where there is a sale between related parties (whether or not they were, are or will be providers of Medicaid services), the buyer's allowable cost basis for the nursing facility shall be the seller's allowable depreciated historical cost (net book value), as determined for Medicaid reimbursement.

3. For purposes of Medicaid reimbursement, a "bona fide" sale shall mean a transfer of title and possession for consideration between parties which are not related. Parties shall be deemed to be "related" if they are related by reasons of common ownership or control. If the parties are members of an immediate family, the sale shall be presumed to be between related parties if the ownership or control by immediate family members, when aggregated together, meets the definitions of "common ownership" or "control." See § 2.10 C for definitions of "common ownership," "control," "immediate family," and "significant ownership or control."

4. The useful life of the fixed assets of the facility shall be determined by AHA guidelines.

5. The buyer's basis in the purchased assets shall be reduced by the value of the depreciation recapture due the state by the provider-seller, until arrangements for repayment have been agreed upon by DMAS.

6. In the event the NF is owned by the seller for less than five years, the reimbursable cost basis of the purchased NF to the buyer, shall be the seller's allowable historical cost as determined by DMAS.

C. An appraisal expert shall be defined as an individual or a firm that is experienced and specializes in multi-purpose appraisals of plant assets involving the establishing or reconstructing of the historical cost of such assets. Such an appraisal expert employs a specially trained and supervised staff with a complete range of appraisal and cost construction techniques; is experienced

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in appraisals of plant assets used by providers, and demonstrates a knowledge and understanding of the regulations involving applicable reimbursement principles, particularly those pertinent to depreciation; and is unrelated to either the buyer or seller.

D. At a minimum, appraisals must include a breakdown by cost category as follows:

1. Building; fixed equipment; movable equipment; land; land improvements.
2. The estimated useful life computed in accordance with AHA guidelines of the three categories, building, fixed equipment, and movable equipment must be included in the appraisal. This information shall be utilized to compute depreciation schedules.

E. Depreciation recapture.

1. The provider-seller of the facility shall make a retrospective settlement with DMAS in instances where a gain was made on disposition. The department shall recapture the depreciation paid to the provider by Medicaid for the period of participation in the Program to the extent there is gain realized on the sale of the depreciable assets. A final cost report and refund of depreciation expense, where applicable, shall be due within 30 days from the transfer of title (as defined below).

2. No depreciation adjustment shall be made in the event of a loss or abandonment.

F. Reimbursable depreciation.

1. For the purpose of this section, "sale or transfer" shall mean any agreement between the transferor and the transferee by which the former, in consideration of the payment or promise of payment of a certain price in money, transfers to the latter the title and possession of the property.

2. Upon the sale or transfer of the real and tangible personal property comprising a licensed nursing facility certified to provide services to DMAS, the transferor or other person liable therein shall reimburse to the Commonwealth the amount of depreciation previously allowed as a reasonable cost of providing such services and subject to recapture under the provisions of the State Plan for Medical Assistance. The amount of reimbursable depreciation shall be paid to the Commonwealth within 30 days of the sale or transfer of the real property unless an alternative form of repayment, the term of which shall not exceed one year, is approved by the director.

3. Prior to the transfer, the transferor shall file a written request by certified or registered mail to the director for a letter of verification that he either does

not owe the Commonwealth any amount for reimbursable depreciation or that he has repaid any amount owed the Commonwealth for reimbursable depreciation or that an alternative form of repayment has been approved by the director. The request for a letter of verification shall state:

- a. That a sale or transfer is about to be made;
- b. The location and general description of the property to be sold or transferred;
- c. The names and addresses of the transferee and transferor and all such business names and addresses of the transferor for the last three years; and

d. Whether or not there is a debt owing to the Commonwealth for the amount of depreciation charges previously allowed and reimbursed as a reasonable cost to the transferor under the Virginia Medical Assistance Program.

4. Within 90 days after receipt of the request, the director shall determine whether or not there is an amount due to the Commonwealth by the nursing facility by reason of depreciation charges previously allowed and reimbursed as a reasonable cost under DMAS and shall notify the transferor of such sum, if any.

5. The transferor shall provide a copy of this section and a copy of his request for a letter of verification to the prospective transferee via certified mail at least 30 days prior to the transfer. However, whether or not the transferor provides a copy of this section and his request for verification to the prospective transferee as required herein, the transferee shall be deemed to be notified of the requirements of this law.

6. After the transferor has made arrangements satisfactory to the director to repay the amount due or if there is no amount due, the director shall issue a letter of verification to the transferor in recordable form stating that the transferor has complied with the provisions of this section and setting forth the term of any alternative repayment agreement. The failure of the transferor to reimburse to the Commonwealth the amount of depreciation previously allowed as a reasonable cost of providing service to DMAS in a timely manner renders the transfer of the nursing facility ineffective as to the Commonwealth.

7. Upon a finding by the director that such sale or transfer is ineffective as to the Commonwealth, DMAS may collect any sum owing by any means available by law, including devising a schedule for reducing the Medicaid reimbursement to the transferee up to the amount owed the Commonwealth for reimbursable depreciation by the transferor or other person liable therein. Medicaid reimbursement to the transferee

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shall continue to be so reduced until repayment is made in full or the terms of the repayment are agreed to by the transferor or person liable therein.

8. In the event the transferor or other person liable therein defaults on any such repayment agreement the reductions of Medicaid reimbursement to the transferee may resume.

An action brought or initiated to reduce the transferee's Medicaid reimbursement or an action for attachment or levy shall not be brought or initiated more than six months after the date on which the sale or transfer has taken place unless the sale or transfer has been concealed or a letter of verification has not been obtained by the transferor or the transferor defaults on a repayment agreement approved by the director.

Article 2. Operating Cost Component.

§ 2.6. Operating cost.

A. Operating cost shall be the total allowable inpatient cost less plant cost and NATCEPs costs. See Part VII for rate determination procedures for NATCEPs costs. To calculate the reimbursement rate, operating cost shall be converted to a per diem amount by dividing it by the greater of actual patient days, or the number of patient days computed as 95% of the daily licensed bed complement during the applicable cost reporting period.

B. For NFs of 30 beds or less, to calculate the reimbursement rate the number of patient days will continue to be computed as not less than 85% of the daily licensed bed complement.

§ 2.7. Nursing facility reimbursement formula.

A. Effective on and after October 1, 1990, all NFs subject to the prospective payment system shall be reimbursed under a revised formula entitled "The Patient Intensity Rating System (PIRS)." PIRS is a patient based methodology which links NF's per diem rates to the intensity of services required by a NF's patient mix. Three classes were developed which group patients together based on similar functional characteristics and service needs.

1. Any NF receiving Medicaid payments on or after October 1, 1990, shall satisfy all the requirements of § 1919(b) through (d) of the Social Security Act as they relate to provision of services, residents' rights and administration and other matters.

2. Direct and indirect group ceilings.

a. In accordance with § 1.3, direct patient care operating cost peer groups shall be established for the Virginia portion of the Washington DC-MD-VA

MSA, the Richmond-Petersburg MSA and the rest of the state. Direct patient care operating costs shall be as defined in VR 460-03-1491.

b. Indirect patient care operating cost peer groups shall be established for the Virginia portion of the Washington DC-MD-VA MSA and for the rest of the state. Indirect patient care operating costs shall include all other operating costs, not defined in VR 460-03-4.1941 as direct patient care operating costs and NATCEPs costs.

c. Effective July 1, 1995, existing indirect peer group ceilings of nursing facilities shall be adjusted according to the schedule below. These adjustments shall be added to the ceiling in effect for each facility on July 1, 1995, and shall apply from that day until the end of the facility's fiscal year in progress at that time. Peer group ceilings for the subsequent fiscal year shall be calculated by adding the adjustments below to the existing interim ceiling. The resulting adjusted interim ceiling shall be increased by 100% of historical inflation to the beginning of the facility's next fiscal year to obtain the new "interim" ceiling, and by 50% of the forecast inflation to the end of the facility's next fiscal year. This action increases the number of indirect patient care operating cost peer groups to a total of eight, four peer groups for the area within the Washington DC-MD-VA MSA, and four for the rest of the state.

Licensed Bed Size Ceiling Adjustment

1 to 30	add \$1.89
31 to 60	add \$1.28
61 to 90	add \$0.62
Over 90	add \$0.00

3. Each NF's Service Intensity Index (SII) shall be calculated for each semiannual period of a NF's fiscal year based upon data reported by that NF and entered into DMAS' Long Term Care Information System (LTCIS). Data will be reported on the multidimensional assessment form prescribed by DMAS (now DMAS-95) at the time of admission and then twice a year for every Medicaid recipient in a NF. The NF's SII, derived from the assessment data, will be normalized by dividing it by the average for all NF's in the state.

See VR 460-03-4.1944 for the PIRS class structure, the relative resource cost assigned to each class, the method of computing each NF's facility score and the methodology of computing the NF's semiannual SIIs.

4. The normalized SII shall be used to calculate the initial direct patient care operating cost peer group medians. It shall also be used to calculate the direct patient care operating cost prospective ceilings and direct patient care operating cost prospective rates for

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each semiannual period of a NF's subsequent fiscal years.

a. The normalized SII, as determined during the quarter ended September 30, 1990, shall be used to calculate the initial direct patient care operating cost peer group medians.

b. A NF's direct patient care operating cost prospective ceiling shall be the product of the NF's peer group direct patient care ceiling and the NF's normalized SII for the previous semiannual period. A NF's direct patient care operating cost prospective ceiling will be calculated semiannually.

c. An SSI rate adjustment, if any, shall be applied to a NF's prospective direct patient care operating cost base rate for each semiannual period of a NF's fiscal year. The SII determined in the second semiannual period of the previous fiscal year shall be divided by the average of the previous fiscal year's SIIs to determine the SII rate adjustment, if any, to the first semiannual period of the subsequent fiscal year's prospective direct patient care operating cost base rate. The SII determined in the first semiannual period of the subsequent fiscal year shall be divided by the average of the previous fiscal year's SIIs to determine the SII rate adjustment, if any, to the second semiannual period of the subsequent fiscal year's prospective direct patient care operating cost base rate.

d. See VR 460-03-4.1944 for an illustration of how the SII is used to adjust direct patient care operating ceilings and the semiannual rate adjustments to the prospective direct patient care operating cost base rate.

5. An adjustment factor shall be applied to both the direct patient care and indirect patient care peer group medians to determine the appropriate initial peer group ceilings.

a. The DMAS shall calculate the estimated gross NF reimbursement required for the forecasted number of NF bed days during fiscal year 1991 under the prospective payment system in effect through September 30, 1990, as modified to incorporate the estimated additional NF reimbursement mandated by the provisions of § 1902(a)(13)(A) of the Social Security Act as amended by § 4211(b)(1) of the Omnibus Budget Reconciliation Act of 1987.

b. The DMAS shall calculate the estimated gross NF reimbursement required for the forecasted number of NF bed days during FY 1991 under the PIRS prospective payment system.

c. The DMAS shall determine the differential between a and b above and shall adjust the peer group medians within the PIRS as appropriate to

reduce the differential to zero.

d. The adjusted PIRS peer group medians shall become the initial peer group ceilings.

B. The allowance for inflation shall be based on the percentage of change in the moving average of the Skilled Nursing Facility Market basket of Routine Service Costs, as developed by Data Resources, Incorporated, adjusted for Virginia, determined in the quarter in which the NF's most recent fiscal year ended. NFs shall have their prospective operating cost ceilings and prospective operating cost rates established in accordance with the following methodology:

1. The initial peer group ceilings established under § 2.7 A shall be the final peer group ceilings for a NF's first full or partial fiscal year under PIRS and shall be considered as the initial "interim ceilings" for calculating the subsequent fiscal year's peer group ceilings. Peer group ceilings for subsequent fiscal years shall be calculated by adjusting the initial "interim" ceilings by a "percentage factor" which shall eliminate any allowances for inflation after September 30, 1990, calculated in both §§ 2.7 A 5 a and 2.7 A 5 c. The adjusted initial "interim" ceilings shall be considered as the final "interim ceiling." Peer group ceilings for subsequent fiscal years shall be calculated by adjusting the final "interim" ceiling, as determined above, by 100% of historical inflation from October 1, 1990, to the beginning of the NFs next fiscal year to obtain new "interim" ceilings, and 50% of the forecasted inflation to the end of the NFs next fiscal year.

2. A NF's average allowable operating cost rates, as determined from its most recent fiscal year's cost report, shall be adjusted by 50% of historical inflation and 50% of the forecasted inflation to calculate its prospective operating cost base rates.

C. The PIRS method shall still require comparison of the prospective operating cost rates to the prospective operating ceilings. The provider shall be reimbursed the lower of the prospective operating cost rates or prospective operating ceilings.

D. Nonoperating costs.

1. Allowable plant costs shall be reimbursed in accordance with Part II, Article 1. Plant costs shall not include the component of cost related to making or producing a supply or service.

2. NATCEPs cost shall be reimbursed in accordance with Part VII.

E. The prospective rate for each NF shall be based upon operating cost and plant cost components or charges, whichever is lower, plus NATCEPs costs. The disallowance of nonreimbursable operating costs in any current fisca

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year shall be reflected in a subsequent year's prospective rate determination. Disallowances of nonreimbursable plant costs and NATCEPs costs shall be reflected in the year in which the nonreimbursable costs are included.

F. For those NFs whose operating cost rates are below the ceilings, an incentive plan shall be established whereby a NF shall be paid, on a sliding scale, up to 25% of the difference between its allowable operating cost rates and the peer group ceilings under the PIRS.

1. The table below presents four incentive examples under the PIRS:

Peer Group Ceilings	Allowable Cost Per Day	Difference % of Ceiling	Sliding Scale	Scale % Dif- ference	
\$30.00	\$27.00	\$3.00	10%	\$.30	10%
30.00	22.50	7.50	25%	1.88	25%
30.00	20.00	10.00	33%	2.50	25%
30.00	30.00	0		0	

2. Separate efficiency incentives shall be calculated for both the direct and indirect patient care operating ceilings and costs.

G. Quality of care requirement. A cost efficiency incentive shall not be paid to a NF for the prorated period of time that it is not in conformance with substantive, nonwaived life, safety, or quality of care standards.

H. Sale of facility. In the event of the sale of a NF, the prospective base operating cost rates for the new owner's first fiscal period shall be the seller's prospective base operating cost rates before the sale.

I. Public notice. To comply with the requirements of § 1902(a)(28)(c) of the Social Security Act, DMAS shall make available to the public the data and methodology used in establishing Medicaid payment rates for nursing facilities. Copies may be obtained by request under the existing procedures of the Virginia Freedom of Information Act.

§ 2.8. Phase-in period.

A. To assist NFs in converting to the PIRS methodology, a phase-in period shall be provided until June 30, 1992.

B. From October 1, 1990, through June 30, 1991, a NF's prospective operating cost rate shall be a blended rate calculated at 33% of the PIRS operating cost rates determined by § 2.7 above and 67% of the "current" operating rate determined by subsection D below.

C. From July 1, 1991, through June 30, 1992, a NF's prospective operating cost rate shall be a blended rate calculated at 67% of the PIRS operating cost rates determined by § 2.7 above and 33% of the "current" operating rate determined by subsection D below.

D. The following methodology shall be applied to calculate a NF's "current" operating rate:

1. Each NF shall receive as its base "current" operating rate, the weighted average prospective operating cost per diems and efficiency incentive per diems if applicable, calculated by DMAS to be effective September 30, 1990.

2. The base "current" operating rate established above shall be the "current" operating rate for the NF's first partial fiscal year under PIRS. The base "current" operating rate shall be adjusted by appropriate allowance for historical inflation and 50% of the forecasted inflation based on the methodology contained in § 2.7 B at the beginning of each of the NF's fiscal years which starts during the phase-in period, October 1, 1990, through June 30, 1992, to determine the NF's prospective "current" operating rate. See VR 460-03-4.1944 for example calculations.

§ 2.8. 2.8.1. Nursing facility rate change.

For the period beginning July 1, 1991, and ending June 30, 1992, the per diem operating rate for each NF shall be adjusted. This shall be accomplished by applying a uniform adjustment factor to the rate of each NF.

Article 3. Allowable Cost Identification.

§ 2.9. Allowable costs.

Costs which are included in rate determination procedures and final settlement shall be only those allowable, reasonable costs which are acceptable under the Medicare principles of reimbursement, except as specifically modified in the Plan and as may be subject to individual or ceiling cost limitations and which are classified in accordance with the DMAS uniform chart of accounts (see VR 460-03-4.1941, Uniform Expense Classification).

A. Certification.

The cost of meeting all certification standards for NF requirements as required by the appropriate state agencies, by state laws, or by federal legislation or regulations.

B. Operating costs.

1. Direct patient care operating costs shall be defined in VR 460-03-4.1941.

2. Allowable direct patient care operating costs shall exclude (i) personal physician fees, and (ii) pharmacy services and prescribed legend and nonlegend drugs provided by nursing facilities which operate licensed in-house pharmacies. These services shall be billed directly to DMAS through separate provider

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agreements and DMAS shall pay directly in accordance with subsections e and f of Attachment 4.19 B of the State Plan for Medical Assistance (VR 460-02-4.1920).

3. Indirect patient care operating costs include all other operating costs, not identified as direct patient care operating costs and NATCEPs costs in VR 460-03-4.1941, which are allowable under the Medicare principles of reimbursement, except as specifically modified herein and as may be subject to individual cost or ceiling limitations.

C. Allowances/goodwill. Bad debts, goodwill, charity, courtesy, and all other contractual allowances shall not be recognized as an allowable cost.

D. Cost of protecting employees from blood borne pathogens. Effective July 1, 1994, reimbursement of allowable costs shall be adjusted in the following way to recognize the costs of complying with requirements of the Occupational Safety and Health Administration (OSHA) for protecting employees against exposure to blood borne pathogens.

1. Hepatitis B immunization. The statewide median of the reasonable acquisition cost per unit of immunization times the number of immunizations provided to eligible employees during facility fiscal years ending during SFY 1994, divided by Medicaid days in the same fiscal period, shall be added to the indirect peer group ceiling effective July 1, 1994. This increase to the ceilings shall not exceed \$.09 per day for SFY 1995.

2. Other OSHA compliance costs. The indirect peer group ceilings shall be increased by \$.07, effective July 1, 1994, to recognize continuing OSHA compliance costs other than immunization.

3. Data submission by nursing facilities. Nursing facilities shall provide for fiscal years ending during SFY 1994, on forms provided by DMAS, (i) the names, job titles and social security numbers of individuals immunized, the number of immunizations provided to each and the dates of immunization; and (ii) the acquisition cost of immunization.

§ 2.10. Purchases/related organizations.

A. Costs applicable to services, facilities, and supplies furnished to the provider by organizations related to the provider by common ownership or control shall be included in the allowable cost of the provider at the cost to the related organization, provided that such costs do not exceed the price of comparable services, facilities or supplies. Purchases of existing NFs by related parties shall be governed by the provisions of § 2.5 B 2.

Allowable cost applicable to management services furnished to the provider by organizations related to the

provider by common ownership or control shall be lesser of the cost to the related organization or the per patient day ceiling limitation established for management services cost. (See VR 460-03-4.1943, Cost Reimbursement Limitations.)

B. Related to the provider shall mean that the provider is related by reasons of common ownership or control by the organization furnishing the services, facilities, or supplies.

C. Common ownership exists when an individual or individuals or entity or entities possess significant ownership or equity in the parties to the transaction. Control exists where an individual or individuals or entity or entities have the power, directly or indirectly, significantly to influence or direct the actions or policies of the parties to the transaction. Significant ownership or control shall be deemed to exist where an individual is a "person with an ownership or control interest" within the meaning of 42 CFR 455.101. If the parties to the transaction are members of an immediate family, as defined below, the transaction shall be presumed to be between related parties if the ownership or control by immediate family members, when aggregated together, meets the definitions of "common ownership" or "control," as set forth above. Immediate family shall be defined to include, but not be limited to, the following: (i) husband and wife, (ii) natural parent, child and sibling, (iii) adopted child and adoptive parent, (iv) step-parent, step-child, step-sister, and step-brother, (v) father-in-law, mother-in-law, sister-in-law, brother-in-law, son-in-law and daughter-in-law, and (vi) grandparent and grandchild.

D. Exception to the related organization principle.

1. Effective with cost reports having fiscal years beginning on or after July 1, 1986, an exception to the related organization principle shall be allowed. Under this exception, charges by a related organization to a provider for goods or services shall be allowable cost to the provider if all four of the conditions set out below are met.

2. The exception applies if the provider demonstrates by convincing evidence to the satisfaction of DMAS that the following criteria have been met:

a. The supplying organization is a bona fide separate organization. This means that the supplier is a separate sole proprietorship, partnership, joint venture, association or corporation and not merely an operating division of the provider organization.

b. A substantial part of the supplying organization's business activity of the type carried on with the provider is transacted with other organizations not related to the provider and the supplier by common ownership or control and there is an open, competitive market for the type of goods or services furnished by the organization. In determining

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whether the activities are of similar type, it is important to also consider the scope of the activity.

For example, a full service management contract would not be considered the same type of business activity as a minor data processing contract. The requirement that there be an open, competitive market is merely intended to assure that the item supplied has a readily discernible price that is established through arms-length bargaining by well informed buyers and sellers.

c. The goods or services shall be those which commonly are obtained by institutions such as the provider from other organizations and are not a basic element of patient care ordinarily furnished directly to patients by such institutions. This requirement means that institutions such as the provider typically obtain the good or services from outside sources rather than producing the item internally.

d. The charge to the provider is in line with the charge for such services, or supplies in the open market and no more than the charge made under comparable circumstances to others by the organization for such goods or services. The phrase "open market" takes the same meaning as "open, competitive market" in subdivision b above.

3. Where all of the conditions of this exception are met, the charges by the supplier to the provider for such goods or services shall be allowable as costs.

4. This exception does not apply to the purchase, lease or construction of assets such as property, buildings, fixed equipment or major movable equipment. The terms "goods and services" may not be interpreted or construed to mean capital costs associated with such purchases, leases, or construction.

E. Three competitive bids shall not be required for the building and fixed equipment components of a construction project outlined in § 2.2. Reimbursement shall be in accordance with § 2.10 A with the limitations stated in § 2.2 B.

§ 2.11. Administrator/owner compensation.

A. Administrators' compensation, whether administrators are owners or non-owners, shall be based on a schedule adopted by DMAS and varied according to facility bed size. The compensation schedule shall be adjusted annually to reflect cost-of-living increases and shall be published and distributed to providers annually. The administrator's compensation schedule covers only the position of administrator and assistants and does not include the compensation of owners employed in capacities other than the NF administrator (see VR 460-03-4.1943, Cost Reimbursement Limitations).

B. Administrator compensation shall mean remuneration paid regardless of the form in which it is paid. This includes, but shall not be limited to, salaries, professional fees, insurance premiums (if the benefits accrue to the employer/owner or his beneficiary) director fees, personal use of automobiles, consultant fees, management fees, travel allowances, relocation expenses in excess of IRS guidelines, meal allowances, bonuses, pension plan costs, and deferred compensation plans. Management fees, consulting fees, and other services performed by owners shall be included in the total compensation if they are performing administrative duties regardless of how such services may be classified by the provider.

C. Compensation for all administrators (owner and nonowner) shall be based upon a 40-hour week to determine reasonableness of compensation.

D. Owner/administrator employment documentation.

1. Owners who perform services for a NF as an administrator and also perform additional duties must maintain adequate documentation to show that the additional duties were performed beyond the normal 40 hour week as an administrator. The additional duties must be necessary for the operation of the NF and related to patient care.

2. Services provided by owners, whether in employee capacity, through management contracts, or through home office relationships shall be compared to the cost and services provided in arms-length transactions.

3. Compensation for such services shall be adjusted where such compensation exceeds that paid in such arms-length transactions or where there is a duplication of duties normally rendered by an administrator. No reimbursement shall be allowed for compensation where owner services cannot be documented and audited.

§ 2.12. Depreciation.

The allowance for depreciation shall be restricted to the straight line method with a useful life in compliance with AHA guidelines. If the item is not included in the AHA guidelines, reasonableness shall be applied to determine useful life.

§ 2.13. Rent/Leases.

Rent or lease expenses shall be limited by the provisions of VR 460-03-4.1942, Leasing of Facilities.

§ 2.14. Provider payments.

A. Limitations.

1. Payments to providers, shall not exceed charges for covered services except for (i) public providers furnishing services free of charge or at a nominal

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charge (ii) nonpublic provider whose charges are 60% or less of the allowable reimbursement represented by the charges and that demonstrates its charges are less than allowable reimbursement because its customary practice is to charge patients based on their ability to pay. Nominal charge shall be defined as total charges that are 60% or less of the allowable reimbursement of services represented by these charges. Providers qualifying in this section shall receive allowable reimbursement as determined in this Plan.

2. Allowable reimbursement in excess of charges may be carried forward for payment in the two succeeding cost reporting periods. A new provider may carry forward unreimbursed allowable reimbursement in the five succeeding cost reporting periods.

3. Providers may be reimbursed the carry forward to a succeeding cost reporting period (i) if total charges for the services provided in that subsequent period exceed the total allowable reimbursement in that period (ii) to the extent that the accumulation of the carry forward and the allowable reimbursement in that subsequent period do not exceed the providers' direct and indirect care operating ceilings plus allowable plant cost.

B. Payment for service shall be based upon the rate in effect when the service was rendered.

C. For cost reports filed on or after August 1, 1992, an interim settlement shall be made by DMAS within 180 days after receipt and review of the cost report. The 180-day time frame shall similarly apply to cost reports filed but not interim settled as of August 1, 1992. The word "review," for purposes of interim settlement, shall include verification that all financial and other data specifically requested by DMAS is submitted with the cost report. Review shall also mean examination of the cost report and other required submission for obvious errors, inconsistency, inclusion of past disallowed costs, unresolved prior year cost adjustments and a complete signed cost report that conforms to the current DMAS requirements herein.

However, an interim settlement shall not be made when one of the following conditions exists.

1. Cost report filed by a terminated provider;
2. Insolvency of the provider at the time the cost report is submitted;
3. Lack of a valid provider agreement and decertification;
4. Moneys owed to DMAS;
5. Errors or inconsistencies in the cost report; or
6. Incomplete/nonacceptable cost report.

§ 2.15. Legal fees/accounting.

A. Costs claimed for legal/accounting fees shall be limited to reasonable and customary fees for specific services rendered. Such costs must be related to patient care as defined by Medicare principles of reimbursement and subject to applicable regulations herein. Documentation for legal costs must be available at the time of audit.

B. Retainer fees shall be considered an allowable cost up to the limits established in VR 460-03-4.1943, Cost Reimbursement Limitations.

C. As mandated by the Omnibus Budget Reconciliation Act of 1990, effective November 5, 1990, reimbursement of legal expenses for frivolous litigation shall be denied if the action is initiated on or after November 5, 1990. Frivolous litigation is any action initiated by the nursing facility that is dismissed on the basis that no reasonable legal ground existed for the institution of such action.

§ 2.16. Documentation.

Adequate documentation supporting cost claims must be provided at the time of interim settlement, cost settlement, audit, and final settlement.

§ 2.17. Fraud and abuse.

Previously disallowed costs which are under appeal and affect more than one cost reporting period shall be disclosed in subsequent cost reports if the provider wishes to reserve appeal rights for such subsequent cost reports. The reimbursement effect of such appealed costs shall be computed by the provider and submitted to DMAS with the cost report. Where such disclosure is not made to DMAS, the inclusion of previously disallowed costs may be referred to the Medicaid Fraud Control Unit of the Office of the Attorney General.

Article 4. New Nursing Facilities.

§ 2.18. Interim rate.

A. For all new or expanded NFs the 95% occupancy requirement shall be waived for establishing the first cost reporting period interim rate. This first cost reporting period shall not exceed 12 months from the date of the NF's certification.

B. Upon a showing of good cause, and approval of the DMAS, an existing NF that expands its bed capacity by 50% or more shall have the option of retaining its prospective rate, or being treated as a new NF.

C. The 95% occupancy requirement shall be applied to the first and subsequent cost reporting periods' actual costs for establishing such NF's second and future cost reporting periods' prospective reimbursement rates. The 95%

occupancy requirement shall be considered as having been satisfied if the new NF achieved a 95% occupancy at any point in time during the first cost reporting period.

D. A new NF's interim rate for the first cost reporting period shall be determined based upon the lower of its anticipated allowable cost determined from a detailed budget (or pro forma cost report) prepared by the provider and accepted by the DMAS, or the appropriate operating ceilings or charges.

E. On the first day of its second cost reporting period, a new nursing facility's interim plant rate shall be converted to a per diem amount by dividing it by the number of patient days computed as 95% of the daily licensed bed complement during the first cost reporting period.

F. Any NF receiving reimbursement under new NF status shall not be eligible to receive the blended phase-in period rate under § 2.8.

G. During its first semiannual period of operation, a newly constructed or newly enrolled NF shall have an assigned SII based upon its peer group's average SII for direct patient care. An expanded NF receiving new NF treatment shall receive the SII calculated for its last semiannual period prior to obtaining new NF status.

§ 2.19. Final rate.

The DMAS shall reimburse the lower of the appropriate operating ceilings, charges or actual allowable cost for a new NF's first cost reporting period of operation, subject to the procedures outlined above in § 2.18 A, C, E, and F.

Upon determination of the actual allowable operating cost for direct patient care and indirect patient care the per diem amounts shall be used to determine if the provider is below the peer group ceiling used to set its interim rate. If costs are below those ceilings, an efficiency incentive shall be paid at settlement of the first year cost report.

This incentive will allow a NF to be paid up to 25% of the difference between its actual allowable operating cost and the peer group ceiling used to set the interim rate. (Refer to § 2.7 F.)

Article 5. Cost Reports.

§ 2.20. Cost report submission.

A. Cost reports are due not later than 90 days after the provider's fiscal year end. If a complete cost report is not received within 90 days after the end of the provider's fiscal year, it is considered delinquent. The cost report shall be deemed complete for the purpose of cost settlement when DMAS has received all of the following, with the exception that the audited financial statements required by subdivisions 3 a and 6 b of this subsection

shall be considered timely filed if received not later than 120 days after the provider's fiscal year end:

1. Completed cost reporting form(s) provided by DMAS, with signed certification(s);
 2. The provider's trial balance showing adjusting journal entries;
 3. a. The provider's audited financial statements including, but not limited to, a balance sheet, a statement of income and expenses, a statement of retained earnings (or fund balance), a statement of cash flows, the auditor's report in which he expresses his opinion or, if circumstances require, disclaims an opinion based on generally accepted auditing standards, footnotes to the financial statements, and the management report. Multi-facility providers shall be governed by § 2.20 A 6;
 - b. Schedule of restricted cash funds that identify the purpose of each fund and the amount;
 - c. Schedule of investments by type (stock, bond, etc.), amount, and current market value;
 4. Schedules which reconcile financial statements and trial balance to expenses claimed in the cost report;
 5. Depreciation schedule;
 6. NFs which are part of a chain organization must also file:
 - a. Home office cost report;
 - b. Audited consolidated financial statements of the chain organization including the auditor's report in which he expresses his opinion or, if circumstances require, disclaims an opinion based on generally accepted auditing standards, the management report and footnotes to the financial statements;
 - c. The NFs financial statements including, but not limited to, a balance sheet, a statement of income and expenses, a statement of retained earnings (or fund balance), and a statement of cash flows;
 - d. Schedule of restricted cash funds that identify the purpose of each fund and the amount;
 - e. Schedule of investments by type (stock, bond, etc.), amount, and current market value; and
 7. Such other analytical information or supporting documentation that may be required by DMAS.
- B. When cost reports are delinquent, the provider's interim rate shall be reduced by 20% the first month and an additional 20% of the original interim rate for each subsequent month the report has not been submitted.

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DMAS shall notify the provider of the schedule of reductions which shall start on the first day of the following month. For example, for a September 30 fiscal year end, notification will be mailed in early January stating that payments will be reduced starting with the first payment in February.

C. After the overdue cost report is received, desk reviewed, and a new prospective rate established, the amounts withheld shall be computed and paid. If the provider fails to submit a complete cost report within 180 days after the fiscal year end, a penalty in the amount of 10% of the balance withheld shall be forfeited to DMAS.

§ 2.21. Reporting form.

All cost reports shall be submitted on uniform reporting forms provided by the DMAS, or by Medicare if applicable. Such cost reports, subsequent to the initial cost report period, shall cover a 12-month period. Any exceptions must be approved by the DMAS.

§ 2.22. Accounting method.

The accrual method of accounting and cost reporting is mandated for all providers.

§ 2.23. Cost report extensions.

A. Extension for submission of a cost report may be granted if the provider can document extraordinary circumstances beyond its control.

B. Extraordinary circumstances do not include:

1. Absence or changes of chief finance officer, controller or bookkeeper;
2. Financial statements not completed;
3. Office or building renovations;
4. Home office cost report not completed;
5. Change of stock ownership;
6. Change of intermediary;
7. Conversion to computer; or
8. Use of reimbursement specialist.

§ 2.24. Fiscal year changes.

All fiscal year end changes must be approved 90 days prior to the beginning of a new fiscal year.

Article 6. Prospective Rates.

§ 2.25. Time frames.

A. For cost reports filed on or after August 1, 1992, a prospective rate shall be determined by DMAS within 90 days of the receipt of a complete cost report. (See § 2.20 A.) The 180-day time frame shall similarly apply to cost reports filed but for which a prospective rate has not been set as of August 1, 1992. Rate adjustments shall be made retroactive to the first day of the provider's new cost reporting year. Where a field audit is necessary to set a prospective rate, the DMAS shall have an additional 90 days to determine any appropriate adjustments to the prospective rate as a result of such field audit. This time period shall be extended if delays are attributed to the provider.

B. Subsequent to establishing the prospective rate DMAS shall conclude the desk audit of a providers' cost report and determine if further field audit activity is necessary. The DMAS will seek repayment or make retroactive settlements when audit adjustments are made to costs claimed for reimbursement.

Article 7. Retrospective rates.

§ 2.26. The retrospective method of reimbursement shall be used for Mental Health/Mental Retardation facilities.

§ 2.27. (reserved)

Article 8. Record Retention.

§ 2.28. Time frames.

A. All of the NF's accounting and related records, including the general ledger, books of original entry, and statistical data must be maintained for a minimum of five years, or until all affected cost reports are final settled.

B. Certain information must be maintained for the duration of the provider's participation in the DMAS and until such time as all cost reports are settled. Examples of such information are set forth in § 2.29.

§ 2.29. Types of records to be maintained.

Information which must be maintained for the duration of the provider's participation in the DMAS includes, but is not limited to:

1. Real and tangible property records, including leases and the underlying cost of ownership;
2. Itemized depreciation schedules;
3. Mortgage documents, loan agreements, and amortization schedules;
4. Copies of all cost reports filed with the DMAS together with supporting financial statements.

§ 2.30. Record availability.

The records must be available for audits by DMAS staff. Where such records are not available, costs shall be disallowed.

Article 9. Audits.

§ 2.31. Audit overview.

Desk audits shall be performed to verify the completeness and accuracy of the cost report, and reasonableness of costs claimed for reimbursement. Field audits, as determined necessary by the DMAS, shall be performed on the records of each participating provider to determine that costs included for reimbursement were accurately determined and reasonable, and do not exceed the ceilings or other reimbursement limitations established by the DMAS.

§ 2.32. Scope of audit.

The scope of the audit includes, but shall not be limited to: trial balance verification, analysis of fixed assets, indebtedness, selected revenues, leases and the underlying cost of ownership, rentals and other contractual obligations, and costs to related organizations. The audit scope may also include various other analyses and studies relating to issues and questions unique to the NF and identified by the DMAS. Census and related statistics, patient trust funds, and billing procedures are also subject to audit.

§ 2.33. Field audit requirements.

Field audits shall be required as follows:

1. For the first cost report on all new NF's.
2. For the first cost report in which costs for bed additions or other expansions are included.
3. When a NF is sold, purchased, or leased.
4. As determined by DMAS desk audit.

§ 2.34. Provider notification.

The provider shall be notified in writing of all adjustments to be made to a cost report resulting from desk or field audit with stated reasons and references to the appropriate principles of reimbursement or other appropriate regulatory cites.

§ 2.35. Field audit exit conference.

A. The provider shall be offered an exit conference to be executed within 15 days following completion of the on-site audit activities, unless other time frames are mutually agreed to by the DMAS and provider. Where two

or more providers are part of a chain organization or under common ownership, DMAS shall have up to 90 days after completion of all related on-site audit activities to offer an exit conference for all such NFs. The exit conference shall be conducted at the site of the audit or at a location mutually agreeable to the DMAS and the provider.

B. The purpose of the exit conference shall be to enable the DMAS auditor to discuss such matters as the auditor deems necessary, to review the proposed field audit adjustments, and to present supportive references. The provider will be given an opportunity during the exit conference to present additional documentation and agreement or disagreement with the audit adjustments.

C. All remaining adjustments, including those for which additional documentation is insufficient or not accepted by the DMAS, shall be applied to the applicable cost report(s) regardless of the provider's approval or disapproval.

D. The provider shall sign an exit conference form that acknowledges the review of proposed adjustments.

E. After the exit conference the DMAS shall perform a review of all remaining field audit adjustments. Within a reasonable time and after all documents have been submitted by the provider, the DMAS shall transmit in writing to the provider a final field audit adjustment report (FAAR), which will include all remaining adjustments not resolved during the exit conference. The provider shall have 15 days from the date of the letter which transmits the FAAR, to submit any additional documentation which may affect adjustments in the FAAR.

§ 2.36. Audit delay.

In the event the provider delays or refuses to permit an audit to occur or to continue or otherwise interferes with the audit process, payments to the provider shall be reduced as stated in § 2.20 B.

§ 2.37. Field audit time frames.

A. If a field audit is necessary after receipt of a complete cost report, such audit shall be initiated within three years following the date of the last notification of program reimbursement and the on site activities, including exit conferences, shall be concluded within 180 days from the date the field audit begins. Where audits are performed on cost reports for multiple years or providers, the time frames shall be reasonably extended for the benefit of the DMAS and subject to the provisions of § 2.35.

B. Documented delays on the part of the provider will automatically extend the above time frames to the extent of the time delayed.

C. Extensions of the time frames shall be granted to the department for good cause shown.

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D. Disputes relating to the timeliness established in §§ 2.35 and 2.37, or to the grant of extensions to the DMAS, shall be resolved by application to the Director of the DMAS or his designee.

PART III. APPEALS.

§ 3.1. Dispute resolution for nonstate operated nursing facilities.

A. NF's have the right to appeal the DMAS's interpretation and application of state and federal Medicaid and applicable Medicare principles of reimbursement in accordance with the Administrative Process Act, § 9-6.14.1 et seq. and § 32.1-325.1 of the Code of Virginia.

B. Nonappealable issues.

1. The use of state and federal Medicaid and applicable Medicare principles of reimbursement.
2. The organization of participating NF's into peer groups according to location as a proxy for cost variation across facilities with similar operating characteristics. The use of individual ceilings as a proxy for determining efficient operation within each peer group.
3. Calculation of the initial peer group ceilings using the most recent cost settled data available to DMAS that reflects NF operating costs inflated to September 30, 1990.
4. The use of the moving average of the Skilled Nursing Facility market basket of routine service costs, as developed by Data Resources, Incorporated, adjusted for Virginia, as the prospective escalator.
5. The establishment of separate ceilings for direct operating costs and indirect operating costs.
6. The use of Service Intensity Indexes to identify the resource needs of given NF's patient mix relative to the needs present in other NF's.
7. The development of Service Intensity Indexes based on:
 - a. Determination of resource indexes for each patient class that measures relative resource cost.
 - b. Determination of each NF's average relative resource cost index across all patients.
 - c. Standardizing the average relative resource cost indexes of each NF across all NF's.
8. The use of the DMAS Long Term Care Information System (LTCIS), assessment form (currently DMAS-95),

Virginia Center on Aging Study, the State of Maryland Time and Motion Study of the Provision of Nursing Service in Long Term Care Facilities, and the KPMG Peat Marwick Survey of Virginia long-term care NF's nursing wages to determine the patient class system and resource indexes for each patient class.

9. The establishment of payment rates based on service intensity indexes.

§ 3.2. Conditions for appeal.

An appeal shall not be heard until the following conditions are met:

1. Where appeals result from desk or field audit adjustments, the provider shall have received a notification of program reimbursement (NPR) in writing from the DMAS.
2. Any and all moneys due to DMAS shall be paid in full, unless a repayment plan has been agreed to by the Director of the Division of Cost Settlement and Audit.
3. All first level appeal requests shall be filed in writing with the DMAS within 90 business days following the date of a DMAS notice of program reimbursement that adjustments have been made to a specific cost report.

§ 3.3. Appeal procedure.

A. There shall be two levels of administrative appeal.

B. Informal appeals shall be decided by the Director of the Division of Cost Settlement and Audit after an informal fact finding conference is held. The decision of the Director of Cost Settlement and Audit shall be sent in writing to the provider within 90 business days following conclusion of the informal fact finding conference.

C. If the provider disagrees with such initial decision the provider may, at its discretion, file a notice of appeal to the Director of the DMAS. Such notice shall be in writing and filed within 30 business days of the date of the initial decision.

D. Within 30 business days of the date of such notice of appeal, the director shall appoint a hearing officer to conduct the proceedings, to review the issues and the evidence presented, and to make a written recommendation.

E. The director shall notify the provider of his final decision within 30 business days of the date of the appointed hearing officer's written recommendation, or after the parties have filed exceptions to the recommendations, whichever is later.

F. The director's final written decision shall conclude

the provider's administrative appeal.

§ 3.4. Formal hearing procedures.

Formal hearing procedures, as developed by DMAS, shall control the conduct of the formal administrative proceedings.

§ 3.5. Appeals time frames.

Appeal time frames noted throughout this section may be extended for the following reasons;

A. The provider submits a written request prior to the due date requesting an extension for good cause and the DMAS approves the extension.

B. Delays on the part of the NF documented by the DMAS shall automatically extend DMAS's time frame to the extent of the time delayed.

C. Extensions of time frames shall be granted to the DMAS for good cause shown.

D. When appeals for multiple years are submitted by a NF or a chain organization or common owners are coordinating appeals for more than one NF, the time frames shall be reasonably extended for the benefit of the DMAS.

E. Disputes relating to the time lines established in § 3.3 B or to the grant of extensions to the DMAS shall be resolved by application to the Director of the DMAS or his designee.

§ 3.6. Dispute resolution for state-operated NFs.

A. Definitions.

"DMAS" means the Department of Medical Assistance Services.

"Division director" means the director of a division of DMAS.

"State-operated provider" means a provider of Medicaid services which is enrolled in the Medicaid program and operated by the Commonwealth of Virginia.

B. Right to request reconsideration.

1. A state-operated provider shall have the right to request a reconsideration for any issue which would be otherwise administratively appealable under the State Plan by a nonstate operated provider. This shall be the sole procedure available to state-operated providers.

2. The appropriate DMAS division must receive the reconsideration request within 30 business days after the date of a DMAS Notice of Amount of Program

Reimbursement, notice of proposed action, findings letter, or other DMAS notice giving rise to a dispute.

C. Informal review. The state-operated provider shall submit to the appropriate DMAS division written information specifying the nature of the dispute and the relief sought. If a reimbursement adjustment is sought, the written information must include the nature of the adjustment sought; the amount of the adjustment sought; and the reasons for seeking the adjustment. The division director or his designee shall review this information, requesting additional information as necessary. If either party so requests, they may meet to discuss a resolution. Any designee shall then recommend to the division director whether relief is appropriate in accordance with applicable law and regulations.

D. Division director action. The division director shall consider any recommendation of his designee and shall render a decision.

E. DMAS director review. A state-operated provider may, within 30 business days after the date of the informal review decision of the division director, request that the DMAS Director or his designee review the decision of the division director. The DMAS Director shall have the authority to take whatever measures he deems appropriate to resolve the dispute.

F. Secretarial review. If the preceding steps do not resolve the dispute to the satisfaction of the state-operated provider, within 30 business days after the date of the decision of the DMAS Director, the provider may request the DMAS director to refer the matter to the Secretary of Health and Human Resources and any other cabinet secretary as appropriate. Any determination by such secretary or secretaries shall be final.

PART IV. INDIVIDUAL EXPENSE LIMITATION.

In addition to operating costs being subject to peer group ceilings, costs are further subject to maximum limitations as defined in VR 460-03-4.1943, Cost Reimbursement Limitations.

PART V. COST REPORT PREPARATION INSTRUCTIONS.

Instructions for preparing NF cost reports will be provided by the DMAS.

PART VI. STOCK TRANSACTIONS.

§ 6.1. Stock acquisition.

The acquisition of the capital stock of a provider does not constitute a basis for revaluation of the provider's assets. Any cost associated with such an acquisition shall not be an allowable cost. The provider selling its stock

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continues as a provider after the sale, and the purchaser is only a stockholder of the provider.

§ 6.2. Merger of unrelated parties.

A. In the case of a merger which combines two or more unrelated corporations under the regulations of the Code of Virginia, there will be only one surviving corporation. If the surviving corporation, which will own the assets and liabilities of the merged corporation, is not a provider, a Certificate of Public Need, if applicable, must be issued to the surviving corporation.

B. The nonsurviving corporation shall be subject to the policies applicable to terminated providers, including those relating to gain or loss on sales of NFs.

§ 6.3. Merger of related parties.

The statutory merger of two or more related parties or the consolidation of two or more related providers resulting in a new corporate entity shall be treated as a transaction between related parties. No revaluation shall be permitted for the surviving corporation.

PART VII. NURSE AIDE TRAINING AND COMPETENCY EVALUATION PROGRAM AND COMPETENCY EVALUATION PROGRAMS (NATCEPs).

§ 7.1. *The Omnibus Budget Reconciliation Act of 1989.*

The Omnibus Budget Reconciliation Act of 1989 (OBRA 89) amended § 1903(a)(2)(B) of the Social Security Act to fund actual NATCEPs costs incurred by NFs separately from the NF's medical assistance services reimbursement rates.

§ 7.2. NATCEPs costs.

A. NATCEPs costs shall be as defined in VR 460-03-4.1941.

B. To calculate the reimbursement rate, NATCEPs costs contained in the most recently filed cost report shall be converted to a per diem amount by dividing allowable NATCEPs costs by the actual number of NF's patient days.

C. The NATCEPs interim reimbursement rate determined in § 7.2 B shall be added to the prospective operating cost and plant cost components or charges, whichever is lower, to determine the NF's prospective rate. The NATCEPs interim reimbursement rate shall not be adjusted for inflation.

D. Reimbursement of NF costs for training and competency evaluation of nurse aides must take into account the NF's use of trained nurse aides in caring for Medicaid, Medicare and private pay patients. Medicaid shall not be charged for that portion of NATCEPs costs which are properly charged to Medicare or private pay

services. The final retrospective reimbursement for NATCEPs costs shall be the reimbursement rate as calculated from the most recently filed cost report by the methodology in § 7.2 B times the Medicaid patient days from the DMAS MMR-240.

E. Disallowance of nonreimbursable NATCEPs costs shall be reflected in the year in which the nonreimbursable costs were claimed.

F. Payments to providers for allowable NATCEPs costs shall not be considered in the comparison of the lower allowable reimbursement or charges for covered services, as outlined in § 2.14 A.

PART VIII. CRIMINAL RECORDS CHECKS FOR NURSING FACILITY EMPLOYEES.

§ 8.1. Criminal records checks.

A. This section implements the requirements of § 32.1-126.01 of the Code of Virginia and Chapter 994 of the Acts of Assembly of 1993 (Item 313 T).

B. A licensed nursing facility shall not hire for compensated employment persons who have been convicted of:

1. Murder;
2. Abduction for immoral purposes as set out in § 18.2-48 of the Code of Virginia;
3. Assaults and bodily woundings as set out in Article 4 (§ 18.2-51 et seq.) of Chapter 4 of Title 18.2 of the Code of Virginia;
4. Arson as set out in Article 1 (§ 18.2-77 et seq.) of Chapter 5 of Title 18.2 of the Code of Virginia;
5. Pandering as set out in § 18.2-355 of the Code of Virginia;
6. Crimes against nature involving children as set out in § 18.2-361 of the Code of Virginia;
7. Taking indecent liberties with children as set out in §§ 18.2-370 or 18.2-370.1 of the Code of Virginia;
8. Abuse and neglect of children as set out in § 18.2-371.1 of the Code of Virginia;
9. Failure to secure medical attention for an injured child as set out in § 18.2-314 of the Code of Virginia;
10. Obscenity offenses as set out in § 18.2-374.1 of the Code of Virginia; or
11. Abuse or neglect of an incapacitated adult as set out in § 18.2-369 of the Code of Virginia.

C. The provider shall obtain a sworn statement or affirmation from every applicant disclosing any criminal convictions or pending criminal charges for any of the offenses specified in subsection B regardless of whether the conviction or charges occurred in the Commonwealth.

D. The provider shall obtain an original criminal record clearance or an original criminal record history from the Central Criminal Records Exchange for every person hired. This information shall be obtained within 30 days from the date of employment and maintained in the employees' files during the term of employment and for a minimum of five years after employment terminates for whatever reason.

E. The provider may hire an applicant whose misdemeanor conviction is more than five years old and whose conviction did not involve abuse or neglect or moral turpitude.

F. Reimbursement to the provider will be handled through the cost reporting form provided by the DMAS and will be limited to the actual charges made by the Central Criminal Records Exchange for the records requested. Such actual charges will be a pass-through cost which is not a part of the operating or plant cost components.

PART IX. USE OF MMR-240.

All providers must use the data from computer printout MMR-240 based upon a 60-day accrual period.

PART X. COMMINGLED INVESTMENT INCOME.

DMAS shall treat funds commingled for investment purposes in accordance with PRM-15, § 202.6.

PART XI. PROVIDER NOTIFICATION.

DMAS shall notify providers of State Plan changes affecting reimbursement 30 days prior to the enactment of such changes.

PART XII. START-UP COSTS AND ORGANIZATIONAL COSTS.

§ 12.1. Start-up costs.

A. In the period of developing a provider's ability to furnish patient care services, certain costs are incurred. The costs incurred during this time of preparation are referred to as start-up costs. Since these costs are related to patient care services rendered after the time of preparation, they shall be capitalized as deferred charges and amortized over a 60-month time frame.

B. Start-up costs may include, but are not limited to,

administrative and nursing salaries; heat, gas, and electricity; taxes, insurance; employee training costs; repairs and maintenance; housekeeping; and any other allowable costs incident to the start-up period. However, any costs that are properly identifiable as operating costs must be appropriately classified as such and excluded from start-up costs.

C. Start-up costs that are incurred immediately before a provider enters the Program and that are determined by the provider, subject to the DMAS approval, to be immaterial need not be capitalized but rather may be charged to operations in the first cost reporting period.

D. Where a provider incurs start-up costs while in the Program and these costs are determined by the provider, subject to the DMAS approval, to be immaterial, these costs shall not be capitalized but shall be charged to operations in the periods incurred.

§ 12.2. Applicability.

A. Start-up cost time frames.

1. Start-up costs are incurred from the time preparation begins on a newly constructed or purchased building, wing, floor, unit, or expansion thereof to the time the first patient (whether Medicaid or non-Medicaid) is admitted for treatment, or where the start-up costs apply only to nonrevenue producing patient care functions or nonallowable functions, to the time the areas are used for their intended purposes.

2. If a provider intends to prepare all portions of its entire facility at the same time, start-up costs for all portions of the facility shall be accumulated in a single deferred charge account and shall be amortized when the first patient is admitted for treatment.

3. If a provider intends to prepare portions of its facility on a piecemeal basis (i.e., preparation of a floor or wing of a provider's facility is delayed), start-up costs shall be capitalized and amortized separately for the portion or portions of the provider's facility prepared during different time periods.

4. Moreover, if a provider expands its NF by constructing or purchasing additional buildings or wings, start-up costs shall be capitalized and amortized separately for these areas.

B. Depreciation time frames.

1. Costs of the provider's facility and building equipment shall be depreciated using the straight line method over the lives of these assets starting with the month the first patient is admitted for treatment.

2. Where portions of the provider's NF are prepared for patient care services after the initial start-up period, those asset costs applicable to each portion

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shall be depreciated over the remaining lives of the applicable assets. If the portion of the NF is a nonrevenue-producing patient care area or nonallowable area, depreciation shall begin when the area is opened for its intended purpose. Costs of major movable equipment, however, shall be depreciated over the useful life of each item starting with the month the item is placed into operation.

§ 12.3. Organizational costs.

A. Organizational costs are those costs directly incident to the creation of a corporation or other form of business. These costs are an intangible asset in that they represent expenditures for rights and privileges which have a value to the enterprise. The services inherent in organizational costs extend over more than one accounting period and thus affect the costs of future periods of operations.

B. Allowable organizational costs shall include, but not be limited to, legal fees incurred in establishing the corporation or other organization (such as drafting the corporate charter and by-laws, legal agreements, minutes of organizational meeting, terms of original stock certificates), necessary accounting fees, expenses of temporary directors and organizational meetings of directors and stockholders and fees paid to states for incorporation.

C. The following types of costs shall not be considered allowable organizational costs: costs relating to the issuance and sale of shares of capital stock or other securities, such as underwriters fees and commissions, accountant's or lawyer's fees, cost of qualifying the issues with the appropriate state or federal authorities, stamp taxes, etc.

D. Allowable organization costs shall generally be capitalized by the organization. However, if DMAS concludes that these costs are not material when compared to total allowable costs, they may be included in allowable indirect operating costs for the initial cost reporting period. In all other circumstances, allowable organization costs shall be amortized ratably over a period of 60 months starting with the month the first patient is admitted for treatment.

PART XIII. DMAS AUTHORIZATION.

§ 13.1. Access to records.

A. DMAS shall be authorized to request and review, either through a desk or field audit, all information related to the provider's cost report that is necessary to ascertain the propriety and allocation of costs (in accordance with Medicare and Medicaid rules, regulations, and limitations) to patient care and nonpatient care activities.

B. Examples of such information shall include, but not be limited to, all accounting records, mortgages, deeds,

contracts, meeting minutes, salary schedules, home office services, cost reports, and financial statements.

C. This access also applies to related organizations as defined in § 2.10 who provide assets and other goods and services to the provider.

PART XIV. HOME OFFICE COSTS.

§ 14.1. General.

Home office costs shall be allowable to the extent they are reasonable, relate to patient care, and provide cost savings to the provider.

§ 14.2. Purchases.

Provider purchases from related organizations, whether for services, or supplies, shall be limited to the lower of the related organizations actual cost or the price of comparable purchases made elsewhere.

§ 14.3. Allocation of home office costs.

Home office costs shall be allocated in accordance with § 2150.3, PRM-15.

§ 14.4. Nonrelated management services.

Home office costs associated with providing management services to nonrelated entities shall not be recognized as allowable reimbursable cost.

§ 14.5. Allowable and nonallowable home office costs.

Allowable and nonallowable home office costs shall be recognized in accordance with § 2150.2, PRM-15.

§ 14.6. Equity capital.

Item 398 D of the 1987 Appropriation Act (as amended), effective April 8, 1987, eliminated reimbursement of return on equity capital to proprietary providers for periods or portions thereof on or after July 1, 1987.

PART XV. REFUND OF OVERPAYMENTS.

§ 15.1. Lump sum payment.

When the provider files a cost report indicating that an overpayment has occurred, full refund shall be remitted with the cost report. In cases where DMAS discovers an overpayment during desk audit, field audit, or final settlement, DMAS shall promptly send the first demand letter requesting a lump sum refund. Recovery shall be undertaken even though the provider disputes in whole or in part DMAS' determination of the overpayment.

§ 15.2. Offset.

If the provider has been overpaid for a particular fiscal year and has been underpaid for another fiscal year, the underpayment shall be offset against the overpayment. So long as the provider has an overpayment balance, any underpayments discovered by subsequent review or audit shall be used to reduce the balance of the overpayment.

§ 15.3. Payment schedule.

A. If the provider cannot refund the total amount of the overpayment (i) at the time it files a cost report indicating that an overpayment has occurred, the provider shall request in writing an extended repayment schedule at the time of filing, or (ii) within 30 days after receiving the DMAS demand letter, the provider shall promptly request in writing an extended repayment schedule.

B. DMAS may establish a repayment schedule of up to 12 months to recover all or part of an overpayment or, if a provider demonstrates that repayment within a 12-month period would create severe financial hardship, the Director of DMAS may approve a repayment schedule of up to 36 months.

C. A provider shall have no more than one extended repayment schedule in place at one time. If subsequent audits identify additional overpayment, the full amount shall be repaid within 30 days unless the provider submits further documentation supporting a modification to the existing extended repayment schedule to include the additional amounts.

D. If, during the time an extended repayment schedule is in effect, the provider ceases to be a participating provider or fails to file a cost report in a timely manner, the outstanding balance shall become immediately due and payable.

E. When a repayment schedule is used to recover only part of an overpayment, the remaining amount shall be recovered from interim payments to the provider or by lump sum payments.

§ 15.4. Extension request documentation.

In the written request for an extended repayment schedule, the provider shall document the need for an extended (beyond 30 days) repayment and submit a written proposal scheduling the dates and amounts of repayments. If DMAS approves the schedule, DMAS shall send the provider written notification of the approved repayment schedule, which shall be effective retroactive to the date the provider submitted the proposal.

§ 15.5. Interest charge on extended repayment.

A. Once an initial determination of overpayment has been made, DMAS shall undertake full recovery of such overpayment whether or not the provider disputes, in whole or in part, the initial determination of overpayment. If an appeal follows, interest shall be waived during the

period of administrative appeal of an initial determination of overpayment.

B. Interest charges on the unpaid balance of any overpayment shall accrue pursuant to § 32.1-313 of the Code of Virginia from the date the director's determination becomes final.

C. The director's determination shall be deemed to be final on (i) the due date of any cost report filed by the provider indicating that an overpayment has occurred, or (ii) the issue date of any notice of overpayment, issued by DMAS, if the provider does not file an appeal, or (iii) the issue date of any administrative decision issued by DMAS after an informal fact finding conference, if the provider does not file an appeal, or (iv) the issue date of any administrative decision signed by the director, regardless of whether a judicial appeal follows. In any event, interest shall be waived if the overpayment is completely liquidated within 30 days of the date of the final determination. In cases in which a determination of overpayment has been judicially reversed, the provider shall be reimbursed that portion of the payment to which it is entitled, plus any applicable interest which the provider paid to DMAS.

PART XVI. REVALUATION OF ASSETS.

§ 16.1. Change of ownership.

A. Under the Consolidated Omnibus Budget Reconciliation Act of 1985, Public Law 99-272, reimbursement for capital upon the change of ownership of a NF is restricted to the lesser of:

1. One-half of the percentage increase (as measured from the date of acquisition by the seller to the date of the change of ownership), in the Dodge Construction Cost Index applied in the aggregate with respect to those facilities that have undergone a change of ownership during the fiscal year, or

2. One-half of the percentage increase (as measured from the date of acquisition by the seller to the date of the change of ownership) in the Consumer Price Index for All Urban Consumers (CPI-U) applied in the aggregate with respect to those facilities that have undergone a change of ownership during the fiscal year.

B. To comply with the provisions of COBRA 1985, effective October 1, 1986, the DMAS shall separately apply the following computations to the capital assets of each facility which has undergone a change of ownership:

1. One-half of the percentage increase (as measured from the date of acquisition by the seller to the date of the change of ownership), in the Dodge Construction Cost Index, or

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2. One-half of the percentage increase (as measured from the date of acquisition by the seller to the date of the change of ownership) in the Consumer Price Index for All Urban Consumers (CPI-U).

C. Change of ownership is deemed to have occurred only when there has been a bona fide sale of assets of a NF (See § 2.5 B 3 for the definition of "bona fide" sale).

D. Reimbursement for capital assets which have been revalued when a facility has undergone a change of ownership shall be limited to the lesser of:

1. The amounts computed in subsection B above;
2. Appraised replacement cost value; or
3. Purchase price.

E. Date of acquisition is deemed to have occurred on the date legal title passed to the seller. If a legal titling date is not determinable, date of acquisition shall be considered to be the date a certificate of occupancy was issued by the appropriate licensing or building inspection agency of the locality where the nursing facility is located.

VA.R. Doc. No. R95-271; Filed February 1, 1995, 11:20 a.m.

BOARD OF OPTOMETRY

Title of Regulation: VR 510-01-1. Regulations of the Virginia Board of Optometry.

Statutory Authority: §§ 54.1-103 and 54.1-2400 and Chapter 32 (§ 54.1-3200 et seq.) of Title 54.1 of the Code of Virginia.

Public Hearing Date: March 16, 1995 - 8 a.m.

Written comments may be submitted through April 21, 1995.

(See Calendar of Events section for additional information)

Basis: Chapter 24 (§ 54.1-2400 et seq.) and Chapter 32 (§ 54.1-3200 et seq.) of Title 54.1 of the Code of Virginia provide the basis for these regulations. Chapter 24 establishes the general powers and duties of the health regulatory boards including the power to establish qualifications for licensure and the responsibility to promulgate regulations. Chapter 32 establishes the Board of Optometry and authorizes that board to regulate licensure, collect fees, and set standards for practice. In addition, § 54.1-103 authorizes the board to promulgate regulations specifying additional training or conditions for individuals seeking licensure by reciprocity or endorsement and § 54.1-113 requires the board to adjust fees at the conclusion of any biennium to assure that they are sufficient to cover expenses but not excessive.

Purpose: The purposes of the proposed amendments are

to:

1. Eliminate duplicative regulations by repealing existing public participation guidelines now found in a separate set of regulations.
2. Establish a process and criteria for licensure without examination for applicants previously licensed in another state to comply with statutory requirements.
3. Comply with the statutory requirement that boards adjust fees when differences in biennial revenues and expenses are greater than 10% by proposing a one-time fee reduction in licensure fees.
4. Respond to consumer complaints and to provide better protection for the public by establishing a new regulation for information to be contained on an ophthalmic prescription for contact lens.

Substance: The key provisions of each amended regulation are summarized as follows:

Section 1.1, Public Participation Guidelines, is repealed. The board has promulgated a separate set of regulations, VR 510-01-2.

Section 1.2 C establishes a method for licensure by endorsement provided that the applicant has passed an examination approximately equivalent to that required for licensure in Virginia and has certified that all other requirements have been met.

Section 1.1 D sets the requirement that applicants who have not passed an equivalent examination for initial licensure may be required to pass a regional or national practical examination.

Section 1.2 sets fees for licensure, renewal, and administrative functions. Several fees have been reduced for fiscal year 1995/96 to comply with statutory requirements. In addition, proration of the initial licensure fee is proposed, and the late renewal fee has been reduced from \$100 to \$10. New fees have been established to cover the costs of providing duplicate certificates or licenses.

Section 3.1 4(f) establishes a new requirement for sufficient and specific information on a contact lens prescription.

Issues:

A. Licensure by endorsement.

Section 54.1-3214 of the Code of Virginia provides for licensure without examination. The issue or problem is how to permit qualified individuals from other states to practice in Virginia, providing expanded access to health care services to the public while continuing to protect the public from unqualified practitioners.

In addition to the Code section cited above, § 54.1-103 permits regulatory boards within the department to: (i) promulgate additional regulations specifying training or conditions for persons seeking licensure; and (ii) promulgate regulations recognizing the licensure issued by other states as full or partial fulfillment of qualifications for licensure.

The advantages of licensure by endorsement are: (i) the board may specify the qualifications necessary for licensure in Virginia in addition to holding a current license in another state. Consequently, the citizens of the Commonwealth are better protected by licensing only those optometrists who have passed an examination approximately equivalent to the Virginia exam and who have been practicing for several years without violations or convictions; and (ii) the public is better served by having access to qualified optometrists who may wish to relocate from another state or to leave federal service. Endorsement is considered to be consistent with a free-market system and conducive to cost-containment in health care. There are no disadvantages associated with this proposal from the agency's or public's standpoint.

The board proposes new requirements for licensure by endorsement as the least restrictive method for licensure without examination which also provides safeguards for the public.

B. Proposed amendments to fees.

The board is required by § 54.1-113 of the Code of Virginia to reduce fees if the surplus in its funds exceeds 10% at the end of the biennium. Since the current surplus for the board exceeds the allowable percentage, the problem is the development of a proposed fee structure that will result in a sufficient reduction in carryover revenue from previous years without creating a subsequent shortfall in the budget. The board considered a permanent fee reduction, but it was anticipated that such a proposal would result in a deficit in board funds and would necessitate an increase in fees at a later date.

To respond to the need to reduce fees, a proposed fee structure for the 94/96 biennium would reduce selected fees for FY 95/96 and would result in a net surplus of \$444,528 or less than 10% of the projected budget of \$466,135.

The advantages and explanation of this proposal as the least burdensome option are:

1. The one-time reduction in the renewal fee from \$150 to \$20 would benefit most the currently licensed optometrists whose fees in previous years contributed to the surplus.
2. The proration of the initial licensure fee clarifies that charge and will benefit those who have applied and are currently in the process of taking the examination and being licensed.

3. The permanent reduction in the fee charged for late renewal from \$100 to \$10 reflects more accurately the actual administrative costs.

4. The permanent reduction in the registration fee for professional designation from \$200 to \$100 is proposed as more reasonable and reflective of actual costs to the board.

The disadvantage of this proposal is that the one-time reduction in the renewal fee from \$150 to \$20 benefits only those licensed now; however, the reduced fee thereafter will benefit all the licensees. There are no disadvantages associated with this proposal from the agency's standpoint.

The board also proposes new fees for:

1. Licensure by endorsement - Since endorsement is proposed as a new method of licensure in optometry, a fee has to be established to cover the actual administrative costs of the application, credentials review and documentation, and licensure. A fee for endorsement (\$195) includes the application and the initial licensure fee.

2. Duplicate wall certificate and duplicate licenses - Original certificates and licenses are provided to licensees as a part of their application fee. Currently, the board has no fee established in regulation to cover its actual direct costs and staff time for producing and mailing duplicates. Fees of \$25 and \$10 respectively are proposed to reimburse the board for its costs for this service.

C. Requirement for sufficient and specific information on a contact lens prescription.

The board receives an average of two to three complaints per month about the failure of an optometrist to provide sufficient information for the complete and accurate filling of a contact lens prescription by licensed opticians. The current practice for some optometrists is either to fit the contact lens themselves or to provide general information to the optician for fitting. Consumers of vision services are unable to obtain contact lenses as original or refills because current practice by some optometrists does not provide sufficient information. When a patient needs a complete prescription for filling or refilling, none exists.

The proposed amendments specify in regulation the key elements of a complete contact lens prescription so that the patient would have the opportunity to have it filled or refilled by the practitioner of his choice. The consumer is clearly benefited by this proposed regulation, which will give him the option of purchasing contact lenses from any qualified professional and eliminate the burden on the public of additional costs incurred in filling or refilling the prescription. The proposed regulation is the least burdensome solution for the optometrist, because the

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elements of the prescription are clearly enumerated and do not require additional costs for compliance. There are no advantages from the agency's viewpoint, nor are there disadvantages from the agency's or public's viewpoints associated with this proposal.

Estimated Impact:

A. Projected number of persons affected and their cost of compliance.

1,185 licensed optometrists will benefit from the one-time renewal fee reduction in fiscal year 95/96 from \$150 to \$20.

For licensed optometrists who comply with the proposed requirement of providing the consumer-patient with a complete contact lens prescription, there will be no additional costs of compliance. For the small percentage who violate established standards of care, costs would include sanctions by the board which may range from a fine of \$250 to discipline against their license for more serious offenses.

Fifty-one optometrists who register their professional designation will benefit from a proposed reduction in the fee from \$200 to \$100.

Approximately 100 licensees per biennium will benefit from the reduction in late fees from the current \$100 to \$10.

Approximately five persons each year will be affected by a new fee for providing a duplicate wall certificate (\$25) or license (\$10).

It is very difficult to estimate the numbers of optometrists who may seek licensure by endorsement under the proposed regulations. An estimated 10 to 15 persons per year may be impacted by the \$195 fee for an application for licensure without an examination fee.

B. Costs to the agency for implementation.

1. Fee reduction - The one-time reduction in fees proposed in § 1.2 will reduce the surplus of \$214,383 for FY 94-96 to \$44,528 for the same period, bringing the difference in revenue over expenditures within the 10% required by § 54.1-113. A one-time reduction was chosen because it is projected that a permanent reduction in fees would result in a deficit by the end of FY 96-98 and would necessitate promulgation of amended regulations to raise fees.

2. Other approximate costs include:

\$3,000 for printing and mailing amended regulations to licensees and interested parties.

\$1,000 per year for an estimated 10% increase in disciplinary cases as a result of noncompliance with new requirements for contact lens prescriptions.

Estimate is based on the costs for mailings and a projection of two additional informal conferences/meetings per year at a cost of \$400 to \$450 per meeting.

C. Cost to local governments.

There will be no impact on local governments.

Summary:

Major elements of the proposed regulations include:

1. *The elimination of the public participation provisions, since the board has adopted public participation guidelines in a separate regulation (VR 510-01-2);*

2. *The addition of a license by endorsement provision to ensure the admission of qualified optometrists into Virginia;*

3. *The adjustment of fees to comply with the requirements of § 54.1-113 of the Code of Virginia; and*

4. *The requirement of an expiration date on all prescriptions for ophthalmic goods and the specified content required on contact lens prescriptions.*

Section 1.1 has been stricken in its entirety, and § 1.2 has been renumbered § 1.1.

Newly numbered § 1.1 C provides for licensure by endorsement. Subdivision C 1 relates to the waiving of certain examination requirements provided the applicant's origin state's examination is first determined to be comparable to that used in Virginia. Subdivision C 2 provides for the filing of application for licensure by endorsement, including a requirement for graduation from an accredited optometric school or college, active clinical practice, continuing education compliance, and freedom from current disciplinary action or pending action. Provisions are also made for an applicant who serves as a federal service optometrist. Applicants for licensure by endorsement must take the Virginia Board of Optometry's State Board Examination and pay appropriate fees.

Subsection D provides for cases involving nonequivalent examinations from other states.

Newly numbered § 1.2 revises the fees currently collected by the board in keeping with § 54.1-113 of the Code of Virginia. Also included in the revision to this section is a new "Application for Licensure by Endorsement Fee," and "Duplicate Wall Certificate" and "Duplicate License" fees. Further, for greater clarity, the board has chosen to propose that the "Examination Fee" be further defined as the

"Application for Licensure by Examination Fee" and that the "Licensure Fee" be further defined as the "Annual Licensure Renewal Fee." Also, given that all licenses must be renewed on or before October 31, including those only active for a few months, the board has proposed the "Initial Licensure Fee" be prorated per month prior to annual renewal.

The title of Part IV is "Professional Designations," yet the fees associated with Professional Designations are titled "Fictitious Name" in this section. Thus, the board has proposed the renaming of the "Fictitious Name" fee and "Annual Fictitious Name Registration" fee to the "Professional Designation Application" fee and "Annual Professional Designation Renewal" fee, respectively.

The phrase "if appropriate" has been stricken from § 3.1 4 e, in effect requiring the expiration date be included on prescriptions for ophthalmic goods. Section 3.1 4 f has been moved to a newly created subdivision "g," and subdivision "f" has been rewritten to provide for information required to be contained in contact lens prescriptions.

VR 510-01-1. Regulations of the Virginia Board of Optometry.

PART I. GENERAL PROVISIONS: LICENSURE QUALIFICATIONS; FEES.

§ 1.1. Public Participation Guidelines:

A. Mailing list.

The executive director of the board will maintain a list of persons and organizations who will be mailed the following documents as they become available:

1. "Notice of intent" to promulgate regulations.
2. "Notice of public hearing" or "informational proceedings", the subject of which is proposed or existing regulations.
3. Final regulation adopted.

B. Being placed on list: deletion.

Any person wishing to be placed on the mailing list may have their name added by writing the board. In addition, the board may, at its discretion, add to the list any person, organization, or publication it believes will serve the purpose of responsible participation in the formation or promulgation of regulations. Those on the list will be provided all information stated in Subsection A. of this section.

Those on the list may be periodically requested to indicate their desire to continue to receive documents or

to be deleted from the list. When mail is returned as undeliverable, or when no timely response is forthcoming, they will be deleted from the list.

C. Notice of intent.

At least 30 days prior to publication of the notice of intent, an informational proceeding as required by § 9-6.14:7.1, of the Code of Virginia the board will publish a "notice of intent." This notice will contain a brief and concise statement of the possible regulation and will address and invite any person to provide written comment on the subject matter. Such notice shall be transmitted to the Registrar for inclusion in the Virginia Register of Regulations.

D. Information proceedings or public hearings for existing rules:

At least once each biennium, the board will conduct an informational proceeding, which may take the form of a public hearing, to receive public comment on existing regulations. The purpose of the proceeding will be to solicit public comment on all existing regulations as to their effectiveness, efficiency, necessity, clarity, and cost of compliance. Notice of such proceeding will be transmitted to the Registrar for inclusion in the Virginia Register. Such proceedings may be held separately or in conjunction with other informational proceedings.

E. Petition for rulemaking.

Any person may petition the board to adopt, amend, or delete any regulation. Any petition received in a timely manner shall appear on the next agenda of the board. The board shall have the sole authority to dispose of the petition.

F. Notice of formulation and adoption.

Prior to any meeting of the board or subcommittee of the board at which the formulation or adoption of regulations is to occur, the subject matter shall be transmitted to the Registrar for inclusion in the Virginia Register.

G. Advisory committees.

The board may appoint advisory committees as it may deem necessary to provide for adequate citizen participation in the formation, promulgation, adoption and review of regulations.

§ 1.2. 1.1. Applicants.

A. The applicant, in order to be qualified to be examined by the board for licensure to practice optometry in the Commonwealth, shall:

1. Be a graduate of a school of optometry approved by the Council on Optometric Education; have the

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registrar of the school provide an official transcript to the board;

2. File at least 30 days prior to the date of examination, on a form supplied by the board, a completed application which shall have affixed securely in the space provided, two identical recent passport-type photographs of himself, not less than 2 1/2 by 2 1/2 inches in size;

3. Submit an official report from the National Board of Examiners in Optometry of the scores received on all parts of the examination of the National Board of Examiners in Optometry; and

4. Submit the prescribed examination fee.

B. If any applicant withdraws from the examination at least 30 days prior to the examination date, all but the prescribed administrative fee will be refunded. If the applicant withdraws in 30 days or fewer prior to the examination date, only the licensure fee will be refunded. If an applicant is unsuccessful in passing the examination, the applicant shall receive upon request a refund of the licensure fee.

C. The provisions for licensure by endorsement are established in this subsection.

1. When a license is issued without examination, subsections A, B, and D of this section may be waived once the board determines that the examination from the state from which the applicant is applying for endorsement was approximately comparable at the time of the initial licensure.

2. An application for licensure by endorsement shall be filed that certifies the following:

a. The applicant has successfully completed an examination in optometry in any state of the United States that is approximately comparable to Virginia examination;

b. The applicant has been engaged in active clinical practice for at least 36 months out of the last 60 months immediately preceding application;

c. The applicant has completed all continuing education requirements from the state in which he is currently licensed;

d. The applicant has been certified to be in good standing from each state in which he is currently licensed;

e. The applicant has not committed any act which would constitute a violation of § 54.1-3204 of the Code of Virginia, and is not the respondent in any pending or unresolved board action or malpractice claim;

f. The applicant has graduated from an accredited school or college of optometry.

3. In the case of a federal service optometrist, the commanding officer shall provide proof of credentialing and quality assurance review to satisfy subdivisions 2 b, 2 c, 2 e, and 2 f of this subsection. The state board of optometry in which the federal service optometrist is currently licensed shall provide the remainder of information required from this subsection.

4. The applicant must take and pass the law portion of the Virginia State Board Examination.

5. All appropriate fees must be paid as prescribed in § 1.2.

D. In the event the examinations for initial licensure are determined not comparable, the board may require the applicant to take and pass a regional or national practical examination.

§ 1.2. Fees.

The following fees are required:

	Fiscal years	There-	
	94/95	95/96	after
Application for Licensure by Examination Fee	\$150	\$150	\$150
Initial Licensure Fee (Prorated \$8.00/month prior to annual renewal)	\$95*	\$95*	\$95*
First Examination (January) after Renewal	\$150		
Second Examination (July) after Renewal	\$75		
Application for Licensure by Endorsement Fee (Includes initial licensure fee)	\$195	\$195	\$195
Examination Fee, certification to use diagnostic pharmaceutical agents	\$100	\$100	\$100
Annual Licensure Renewal Fee (renewed annually) (due October 31st)	\$150	\$20	\$150
Late Fee	\$100	\$10	\$10
Administrative Fee	\$25	\$25	\$25
Fictitious Name Professional Designation Application	\$200	\$100	\$100
Annual Fictitious Name Registration Fee Professional Designation Renewal (due 10/31 October 31st)	\$50/location		

	\$50**	\$50**	\$50**
Reinstatement Fee	\$250	\$250	\$250
Duplicate Wall Certificate	\$25	\$25	\$25
Duplicate License	\$10	\$10	\$10

*Maximum **per location

PART II. EXAMINATIONS.

§ 2.1. Examinations.

A. For the purpose of § 54.1-3211 of the Code of Virginia, the board adopts all parts of the examination of the National Board of Examiners in Optometry as its written examination for licensure.

B. In addition, upon receiving a passing score on all parts of the examination of the National Board of Examiners in Optometry, an applicant shall pass a practical examination administered or accepted by the Virginia Board of Optometry. If the board chooses to use a regional or national practical examination, the applicant must pass this examination prior to licensure.

C. All candidates must take and pass the law portion of the examination.

D. A candidate may take or retake the practical examination or law examination upon payment of the prescribed examination fee.

PART III. UNPROFESSIONAL CONDUCT.

§ 3.1. Unprofessional conduct.

It shall be deemed unprofessional conduct for any licensed optometrist in the Commonwealth to:

1. Fail to use in connection with the optometrist's name wherever it appears relating to the practice of optometry one of the following: the word "optometrist," the abbreviation "O.D.," or the words "doctor of optometry."

2. Practice optometry under a name other than the optometrist's own name, except to the extent authorized by § 4.1, "Professional Designations."

3. Fail to maintain records on each patient for not less than five years from the date of the most recent service rendered.

a. A complete record of all examinations and treatment made of a patient shall include but not be limited to:

(+) a. During a comprehensive eye examination:

(a) (1) Care history;

(b) (2) Acuity measure;

(c) (3) Internal tissue health evaluation;

(d) (4) External tissue health evaluation;

(e) (5) Refraction;

(f) (6) Treatment, recommendations and directions to the patients, including prescriptions; and

(g) (7) Name of attending optometrist.

(2) b. During a contact lens examination:

(a) (1) The requirements of subdivision 3 a (+) of this section;

(b) (2) Assessment of corneal curvature;

(c) (3) Acuity through the lens;

(d) (4) Directions for the care and handling of lenses and an explanation of the implications of contact lenses with regard to eye health and vision; and

(e) (5) Name of attending optometrist.

(3) c. During a follow-up contact lens examination:

(a) (1) Assessment of fit of lens;

(b) (2) Acuity through the lens;

(c) (3) Such further instructions as in § 3-1 3 a (2)(d) subdivision 3 b (4) above as necessary for the individual patient; and

(d) (4) Name of attending O.D.

4. Fail to include the following information on a prescription for ophthalmic goods:

a. The printed name of the prescribing optometrist;

b. The address and telephone number at which the patient's records are maintained and the optometrist can be reached for consultation;

c. The name of the patient;

d. The signature of the optometrist;

e. The date of the examination, and, if appropriate, expiration date of the prescription;

f. Sufficient information for complete and accurate filling of a contact lens prescription. This shall

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include but not be limited to the power, the fit, the material or manufacturer, the curve or appropriate designation, and the diameter when appropriate.

f. g. Any special instructions.

5. Refuse to provide a written prescription for spectacle lenses upon the request of the patient once all fees have been paid.

6. Refuse to provide a written prescription for contact lenses upon the request of the patient once all fees have been paid and the prescription has been established and the follow-up care completed. Follow-up care will be presumed to have been completed if there is no reappointment scheduled within 30 days after the last visit.

7. Advertise in a manner that is false, misleading, or deceptive. False, misleading and deceptive advertising shall include, but not be limited to, when the price of ophthalmic goods or services (or both) is advertised, to fail to state what goods and services the advertised price includes.

8. Administer any diagnostic pharmaceutical agents, specified in § 54.1-3221 of the Code of Virginia, without certification of the Board of Optometry to use such agent.

9. Fail to post conspicuously in the entrance or reception area of the optometric office, a chart or directory listing the names of all optometrists practicing at that particular location.

10. Violate any provision of these regulations pertaining to professional designations.

11. Fail to maintain patient records, perform procedures or make recommendations during any eye examination contact lens examination or treatment as necessary to protect the health and welfare of the patient.

12. Practicing on an invalid license shall occur when the requirements as set forth in § 5.1 A and C or § 6.1 A and B have not been met.

PART IV. PROFESSIONAL DESIGNATIONS.

§ 4.1. Professional designations.

A. An optometrist may practice in an office that uses any of the following professional designations.

1. The name of the optometrist as it appears on his license or renewal certificate; or
2. The name of an optometrist who employs him and practices in the same office; or

3. A partnership name composed of some or all names of optometrists practicing in the same office; or

4. A fictitious name, if the conditions set forth in subsection B of this section are fulfilled.

B. Optometrists licensed in this Commonwealth who practice as individuals, partnerships, associations, or other group practices may use a fictitious name for the optometric office in which they conduct their practices, provided the following conditions are met:

1. Each fictitious name shall be registered with the board by a licensed optometrist, who must be associated with the optometric office and who shall assume responsibility for compliance with this section. Each fictitious name shall be approved by the board and a fee shall be paid as prescribed by board regulations prior to use of the name. Names which, in the judgment of the board, are false, misleading, or deceptive will be prohibited.

2. No licensed optometrist may, at any time, register to practice optometry under more than one fictitious name.

3. All advertisements, including but not limited to signs, printed advertisements, and letterheads, shall contain the word "optometry" or reasonably recognizable derivatives thereof unless the name of the optometrist is used with the fictitious name with the O.D. designation, Doctor of Optometry or optometrist.

4. In the entrance or reception area of the optometric office, a chart or directory listing the names of all optometrists practicing at that particular location shall be kept at all times prominently and conspicuously displayed.

5. The names of all optometrists who practice under the fictitious name shall be maintained in the records of the optometric office for five years following their departure from the practice.

6. Subsequent to the administration of any optometric service, the optometrist of record shall place his name in the record of the patient following a description of the service rendered. If the treatment is rendered by an optometrist other than the optometrist of record, the name of that optometrist shall be placed in the record of the patient.

7. The name of the licensed optometrist providing care shall appear on the initial statement of charges and on the receipts given to patients.

8. No fictitious name may be used which contains the name of an inactive, retired, removed, or deceased optometrist, except that for a period of no more than one year from the date of succession to a practice, an

optometrist may list the name of the inactive, retired, removed, or deceased optometrist, so long as he does so in conjunction with his own name, together with the words, "succeeded by," "succeeding," or "successor to."

PART V. RENEWAL OF LICENSURE; REINSTATEMENT.

§ 5.1. Renewal fees.

A. Every person authorized by the board to practice optometry shall, on or before October 31 of every year, pay to the executive director of the Board of Optometry the prescribed annual licensure fee.

B. It shall be the duty and responsibility of each licensee to assure that the board has the licensee's current address. All changes of mailing address or name shall be furnished to the board within five days after the change occurs. All notices required by law or by these rules and regulations are to be deemed to be validly tendered when mailed to the address given and shall not relieve the licensee of the obligation to comply.

C. It shall be the duty of each person so licensed to return the renewal application with the prescribed fee prior to the expiration of their license postmarked no later than October 31. Upon expiration of the license, the executive director of the board shall notify the licensee of expiration and reinstatement procedures. The license of every person who does not return the completed form and fee by October 31 of each year shall be extended for 30 days until November 30 and may be renewed by paying the prescribed late fee, postmarked no later than November 30 provided the requirements of § 6.1 have been met. After November 30, an unrenewed license is invalid. The executive director may grant reinstatement provided that the applicant can demonstrate continuing competence; that the applicant has satisfied requirements for continuing education during the lapsed period; and that the applicant has paid all unpaid renewal fees from the time the license lapsed, and the prescribed reinstatement fee. In addition to the foregoing reinstatement procedure, the failure to renew a license may subject the licensee to disciplinary action by the board.

D. The board may, in its discretion, require an applicant who cannot satisfy §§ 1.2 and 2.1 and the requirement of subsection C of § 5.1 of these regulations, to pass all parts of the written examination of the National Board of Examiners in Optometry or the practical examination administered or accepted by the board, or both.

PART VI. CONTINUING EDUCATION.

§ 6.1. Continuing education.

A. Each license renewal shall be conditioned upon submission of evidence to the board of 12 hours of

continuing education taken by the applicant during the previous license period.

B. It shall be the responsibility of each licensee to submit evidence substantiating attendance of continuing education courses, as required by subsection A of this section, no later than October 31 of the license period.

C. The board will review courses for acceptability for purposes of continuing education requirements if the following information is provided:

1. The title of the course;
2. The sponsoring organization(s);
3. The name of the lecturer;
4. The qualifications of the lecturer;
5. An outline of the course's content;
6. The length of the course in clock hours;
7. The method of certification of attendance or completion if offered as a correspondence course; and
8. Number of credit hours requested.

D. The titles of all courses approved by the board will be kept on a list maintained by the board. All courses approved by the board shall pertain directly to the care of the patient.

Courses excluded by the board shall include:

1. Courses which are designed to promote the sale of specific instruments or products;
2. Courses offering instruction on augmenting income; and
3. Courses which are neither advertised nor in fact available to all optometrists or any courses for which there is no independent assurance that no part of the educational session is devoted to the promotion of specific instruments, products, or marketing philosophies.

E. When the annual license fee is submitted to the executive director of the board, the licensee shall enclose with it the required forms to indicate fulfillment of the continuing education requirements for the previous period. All continuing education must be completed prior to October 31 unless extension or waiver has been granted by the Continuing Education Committee. In the event that continuing education has not been completed by October 31, the executive director of the board shall notify the licensee that their license has lapsed. The board may reinstate the license, upon showing of disability or undue hardship, or upon showing that the licensee has complied

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with the requirements of subsection B of this section.

VA.R. Doc. No. R95-272; Filed February 1, 1995, 12:02 p.m.

DEPARTMENT OF SOCIAL SERVICES (STATE BOARD OF)

**Title of Regulation: VR 615-25-01:1. Minimum Standards
for Licensed Family Day Homes.**

**Statutory Authority: §§ 63.1-196 and 63.1-202 of the Code of
Virginia.**

The Board of Social Services has **WITHDRAWN** the proposed amendments to the regulation entitled, "VR 615-25-01:1, Minimum Standards for Licensed Family Day Homes," which were published in 10:15 VA.R. 3858-3879 April 18, 1994.

VA.R. Doc. No. R95-266; Filed January 31, 1995, 11:30 a.m.

FINAL REGULATIONS

VIRGINIA STATE BAR

EDITOR'S NOTICE: The Virginia State Bar is exempt from the Administrative Process Act in accordance with § 9-6.14:4.1 A 2 of the Code of Virginia, which exempts agencies of the Supreme Court.

Title of Regulations: VR 167-01-301. Bylaws of the Virginia State Bar and Council.

Statutory Authority: § 54.1-3910 of the Code of Virginia.

Effective Date: July 7, 1993.

Summary:

The regulation is designed to outline state bar and council meeting and committee procedures. The regulation defines membership/officers of the state bar and council and sets forth policies relating to elections and voting.

VR 167-01-301. Bylaws of the Virginia State Bar and Council.

PART I. BYLAWS OF THE VIRGINIA STATE BAR.

Article 1. Members.

§ 1.1. Membership of bar.

The Virginia State Bar is comprised of all attorneys licensed to practice law in Virginia.

Article 2. Officers.

§ 1.2. Officers of bar.

The officers of the Virginia State Bar shall be a president, a president-elect, and a secretary-treasurer.

Article 3. Election of President-Elect.

§ 1.3. Nominations.

In order to qualify for election to the office of president-elect, a candidate must be duly qualified as set forth in Paragraph 4 of the Rules of Court, Part Six, Section IV, and must file a nominating petition with the executive director.

§ 1.4. Petition.

The nominating petition shall be signed by at least 50 members of the Virginia State Bar and shall be signed by the candidate, who shall certify that he is qualified to run for the office. The nominating petition must be received

by the executive director on or before March 15 of each year.

§ 1.5. Method of election.

In the event only one nominating petition is received by the executive director on or before March 15 of any year, the election for the office of president-elect shall be held at the next annual meeting in accordance with the provisions of Article 4 of this part.

In the event two or more nominating petitions are received by the executive director on or before March 15 of any year, the election of the president-elect will be in accordance with the provisions of §§ 1.6 and 1.7.

§ 1.6. Mail ballots.

In the event nominating petitions for two or more candidates are received by the executive director on or before March 15 of any year, then:

1. The executive director shall prepare a ballot which shall list in alphabetical order the names of those persons nominated to the office of president-elect; and

2. The ballot shall be mailed to all members on or before April 15. The form of the ballot and the procedure for the collection and tabulation of ballots shall be determined by the executive director.

§ 1.7. Mail ballot elections.

The ballots shall be collected and counted in a manner which assures the confidentiality of the members' votes. A plurality of the votes cast by all members shall elect. No ballot received by the executive director after May 1 shall be counted.

§ 1.8. General provisions.

The following provisions shall be applicable to any election of the president-elect under this article.

1. For purposes of these provisions, a "member" is an active member in good standing of the Virginia State Bar. Only such person may nominate, be nominated, vote or be elected in any election for the office of president-elect.

2. Records maintained by the executive director as to membership and good-standing status shall be controlling.

3. The failure to comply with the dates designated for the concurrence of completion of certain acts shall not invalidate any election, unless substantial prejudice can be shown to have resulted therefrom.

4. For purposes of determining voter and candidate eligibility, the membership list maintained by the

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executive director as of March 15 shall be controlling. Except to correct clerical errors in records maintained as of that date, no revisions or additions to the membership list for purposes of the election shall be made after March 15.

5. The executive director shall announce the results of the election for the office of president-elect in a newsletter, magazine or other mailing of the bar, after the election.

6. Any responsibility assigned herein to be discharged by the executive director may be assured and discharged by the executive committee, as its discretion.

7. Any challenge to an election shall be resolved by a committee which shall be chaired by the president and shall include the president-elect, the immediate past president and two members of council appointed by the president who shall not be current members of the executive committee.

Article 4. Meetings.

§ 1.9. Notice of meetings.

The secretary shall give 30 days' notice by mail of annual meetings of the bar, and such written notice of special meetings of the bar as the executive committee shall prescribe in its call. Meetings of the organization shall be held at such times and places and after such notices as may be prescribed by the appropriate provisions of Section IV, Rules of the Supreme Court for the Integration of the Virginia State Bar and Council Bylaws.

§ 1.10. Quorum.

A quorum at any such meeting shall be as set forth in the Court Rules.

§ 1.11. Program.

The program and order of business at any meeting of the Virginia State Bar, unless otherwise ordered by the council, shall be determined by the president in consultation with the president-elect and the executive director.

§ 1.12. Rules of order.

Proceedings at any such meeting shall be governed by Roberts Rules of Order, except that no member shall without unanimous consent speak more than twice on any one subject nor more than five minutes at any one time.

§ 1.13. Voting.

Voting at any such meeting shall be viva voce with each active member present entitled to vote, unless at least 10

active members shall either before or immediately after such vote demand a vote by judicial circuits on a roll called in numerical order. In the latter event, each circuit shall be entitled to one vote for each 25 active members or fraction of 25 registered in that circuit. When a vote by circuits is ordered, the active members present from each circuit shall cast the entire vote to which such circuit is entitled. If there be a division among the active members present from any circuit as to how the vote of such circuit shall be cast, the vote of such circuit shall be divided and cast in proportion to the vote on such division, unless such circuit at a meeting of its members shall have adopted and caused to be certified to the secretary a resolution providing that the entire vote of such circuit shall be cast as a majority of the active members from that circuit present and voting shall determine.

Provided however, that in any election for the office of president-elect, voting shall be viva voce unless more than one candidate shall be duly nominated, in which event voting shall be by written ballot by judicial circuits as provided in Article 3.

§ 1.14. Registration.

An active member shall be deemed to be registered in the circuit where he is entitled to vote for a member of council provided that for the purpose of this section, no member may change his registration within five days preceding a meeting of the organization. At the opening of the meeting the secretary shall post in a conspicuous place a list showing the number of votes to which each circuit is entitled and shall, upon the request of a member of any circuit, also post a list of the active members officially registered in that circuit. The lists so posted shall be conclusive as to the number of votes to which each circuit in which an active member is registered, may be appeal to the floor; but the circuits or members affected shall not vote on such appeal.

Article 5. Committees.

§ 1.15. Appointments.

Unless otherwise provided in the Court Rules, all committees shall be appointed by the president, who shall have power to determine the size of the committee and to designate the chairman thereof and to fill any vacancy therein.

§ 1.16. Quorum.

A majority of any committee shall constitute a quorum.

Article 6. Committee on Resolutions.

§ 1.17. Standing Committee on Resolutions.

There shall be a Standing Committee on Resolutions to

consider and report on all resolutions offered from the floor, which resolutions shall automatically be referred without debate to the Committee on Resolutions, provided that specific resolutions proposed in the written report of any standing or special committee shall not be referred to the Committee on Resolutions unless so ordered by the meeting; and provided further that by a four-fifths vote reference of any resolution to the Committee on Resolutions may be dispensed with, the motion for which may be debated.

PART II. BYLAWS OF THE COUNCIL.

Article 1. Members.

§ 2.1. Membership of council.

The council is comprised of attorneys elected or appointed in accordance with applicable provisions of § 4, Rules of the Supreme Court for the Organization and Government of the Virginia State Bar.

Article 2. Election of Council.

§ 2.2. Election of members.

The election of members of council for each circuit shall be by one of the two following methods.

§ 2.3. Circuit bar meeting.

Prior to March 1 of any year in which a council member from the circuit is to be elected, the executive director shall notify the chief judge of the circuit of the need for a meeting of the bar of the circuit and the number of vacancies to be filled. The executive director shall obtain from the chief judge the date and location for a meeting of the members of the circuit which shall be held prior to May 1. The executive director shall mail a written notice to the members of the meeting at least 14 days before such meeting.

All members whose Virginia State Bar membership mailing addresses are maintained in the circuit may attend and vote at the meeting. A quorum shall consist of those members who vote at the meeting. No member shall vote by proxy. Prior to the meeting, the executive director shall transmit to the chief judge or the designated presiding officer a list of the members whose names appear on the membership roster for such circuit. The chief judge shall either preside at the meeting, designate another active or retired judge of the circuit to preside, or designate an attorney to preside who is neither a candidate for election to council nor associated in the practice of law with a candidate nominated for election.

At the circuit meeting, any member eligible to vote in the circuit who is not then serving a second successive full

term on council shall be eligible for election. Nominations may be made at the circuit meeting or by any member eligible to vote in the circuit. No supporting petition or second for such nomination will be required. After the nominations are closed, an election by written ballot shall be conducted. In the event of a tie vote, the winner shall be chosen by lot drawn by the presiding judge or his designee.

Within 10 days after the meeting, the presiding officer or the chief judge shall communicate the names of the person or persons elected to the executive director.

§ 2.4. Mail ballot.

On or about March 1, the executive director shall cause to be mailed to every member eligible to vote in the circuit a notice of any vacancy or vacancies on council and a brief description of the method of nomination and voting. All members whose Virginia State Bar membership mailing addresses are maintained in the circuit are eligible to vote.

Nominations for election to council shall be by petition filed by the candidate with the executive director. Such petition shall be signed by not fewer than the other members eligible to vote in the circuit, and shall be accompanied by a statement of qualifications not exceeding 150 words. Nominations must be filed in the office of the executive director on or before April 1. Any petition failing to comply with these requirements shall be rejected.

On or before April 15, the executive director shall mail to all eligible members of the circuit a ballot containing the names of all persons nominated, along with each nominee's statement of qualifications.

Ballots shall be in a form prescribed by the executive director and shall be collected and counted in a manner prescribed by the executive director. In the event of a tie vote, the executive director shall pick the winner by lot. No ballot received by the executive director after May 1 shall be counted.

Write-in votes shall be permitted, but the executive director may exclude illegible write-in votes. In those instances where there are more candidates for council positions than there are positions to be filled from the circuit, the ballot will contain instructions to vote only for the same number of persons as there are positions to be filled; ballots which do not conform to this requirement will not be counted.

§ 2.5. General provisions.

The following provisions shall be applicable to both methods of election:

1. The timeline for special elections to fill vacancies on council shall be determined by the executive

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director.

2. For purposes of these provisions, a "member" is an active member in good standing of the Virginia State Bar. Only such person may nominate, be nominated, vote or be elected in any council election.

3. Records maintained by the executive director as to memberships, good-standing status and assignment of a member to a particular circuit shall be controlling.

4. The failure to comply with dates designated for the occurrence or completion of certain acts shall not invalidate any election unless substantial prejudice can be shown to have resulted therefrom.

5. In all elections the candidate receiving the highest number of votes shall be elected.

In the event that more than one full term is to be filled by circuit at any single election, the candidates receiving the highest number of votes shall be elected.

In the event that a regular election and special election to fill an unexpired term are held simultaneously in the same circuit, they shall be conducted as a single election and the successful candidate receiving the highest number of votes shall be entitled to choose either a regular term or the unexpired term, with the choice passing down in order until the unexpired term is selected. The successful candidate receiving the lower number of votes shall be elected to fill the term not chosen. In the event two or more unexpired terms are to be filled in the same election, the longer unexpired term shall go to the successful candidate receiving the highest number of votes who choose to fill an unexpired term.

6. As a part of the election process in each circuit under these bylaws, the voting members of the circuit shall prescribe the method for that circuit's next election and, in the event of a meeting, shall determine the length of time during which ballots may be cast in the next election, not to exceed one business day. A vote to change the method of election shall be by majority of votes cast. The ballot in each circuit's election shall provide a space for the voting member to indicate a preference for one of the two election methods described by these bylaws. For the meeting method, the ballot shall also provide a space to indicate whether voting shall be allowed all day, half day or only during the meeting. No quorum call shall be required for any meeting.

7. For purposes of determining voter and candidate eligibility, the membership list maintained by the executive director as of March 15 shall be controlling. Except to correct clerical errors in records maintained as of that date, no changes in circuit membership, revisions or additions to the membership list for purposes of the election shall be made after March

15.

8. The executive director shall announce the results of council elections in a newsletter, magazine or other mailing of the bar after the election.

9. Any challenge to an election shall be resolved by a committee which shall be chaired by the president and shall include the president-elect, the immediate past president, and two members of council appointed by the president who shall not be current members of the Executive Committee.

Article 3.

Secretary Treasurer (Executive Director).

§ 2.6. Duties.

The secretary-treasurer (executive director) shall perform all duties prescribed by the rules and these bylaws, and in addition such other duties as may be delegated to him from time to time by the council or Executive Committee. He shall act as secretary of the bar, of the council and of the Executive Committee.

§ 2.7. Surety bond.

The secretary-treasurer (executive director) shall give bond of \$250,000 with corporate surety conditioned for the faithful performance of his duties, the premium of which shall be paid by the bar.

Article 4.

Notices of Meetings.

§ 2.8. Notice of meetings.

The secretary shall give 20 days' notice by mail of all meetings of the council, and five days' notice by mail of all meetings of the executive committee. Notice of mailing shall commence on the date of mailing.

Article 5.

Meetings.

§ 2.9. Bar meetings.

In the absence of specific action by the council, the Executive Committee shall fix the time and place of the annual meetings of the bar, and may call any special meetings of the bar at such time and place as it shall designate.

§ 2.10. Council meetings.

In the absence of specific action by the council, the Executive Committee shall fix the time and place of all meetings of the council. There shall be at least two meetings annually. Special meetings of the council may be called at any time by the Executive Committee. The Executive Committee shall call a special meeting at the

written request of 12 members of the council.

§ 2.11. Called meetings.

The Executive Committee shall meet on the call of the president or of the president-elect and a meeting shall be called at the written request of three members of the committee.

§ 2.12. Rules of order.

Proceedings at all meetings shall be governed by Roberts Rules of Order, except that no member shall without unanimous consent speak more than twice on any one subject or more than five minutes at any one time.

Article 6. Executive Committee.

§ 2.13. Membership.

There shall be an Executive Committee consisting of 10 members, six of whom shall be elected annually by and from council, with the president, president-elect, immediate past president and president of the young lawyers conference.

§ 2.14. Quorum.

A quorum of the Executive Committee shall consist of five members thereof.

§ 2.15. Allocation of funds.

The Executive Committee shall have authority to allocate funds as required by Rule 9(f) within the amounts available; to employ such assistants as it deems necessary, and fix their duties and compensations; to cause proper books of accounting to be kept and audited annually, and cause proper financial statements of receipts and expenditures to be prepared and presented to the council and to the bar; to adopt and promulgate such forms as may be necessary for putting into effect these bylaws and the Rules of Court; and between meetings of the council to perform such other duties and functions as are prescribed for the council in the Rules of Court, except such functions and duties as the council may reserve to itself or may delegate to other committees.

Article 7. District Committees.

§ 2.16. Designation of committees.

The several district committees provided for by Part 6, § 4, Paragraph 13 of the Rules of Court and elected by the council shall be known as district committees under numerical designation of the respective districts, for example, First District Committee, etc. A committee shall consist of nine or, in the discretion of council, 18, 27 or 36 members. Two members of a nine-member committee,

four members of an 18-member committee, six members of a 27-member committee, and eight members of a 36-member committee shall be nonlawyers, but no member of the council shall be a member of a district committee.

§ 2.17. Organization of committees.

Effective July 1, 1992, the district committees shall be comprised of the following judicial circuits:

- First District Committee: Circuits 1, 3, 5, 7, and 8
- Second District Committee: Circuits 2 and 4 (2 sections)
- Third District Committee: Circuits 6, 11, 12, 13 and 14 (3 sections)
- Fourth District Committee: Circuits 17 and 18 (2 sections)
- Fifth District Committee: Circuits 19 and 31 (3 sections)
- Sixth District Committee: Circuits 9 and 15
- Seventh District Committee: Circuits 16, 20 and 26
- Eighth District Committee: Circuits 23 and 25
- Ninth District committee: Circuits 10, 21, 22, and 24
- Tenth District Committee: Circuits 27, 28, 29 and 30 (2 Sections)

§ 2.18. Notice to members.

The secretary shall notify the members of each committee of their appointments and the committee of each district shall meet within 40 days thereafter and shall elect from their members a chairman, vice-chairman, secretary and assistant secretary and such other officers as they deem necessary, all of whom shall serve at the pleasure of the committee.

Article 8. Standing Committees.

§ 2.19. Committee on Legal Ethics.

There shall be a standing committee, to be appointed by the president and to be known as the Committee on Legal Ethics. The committee shall consist of nine active members of the bar, a majority of whom shall be members of the council. All powers and duties of the council with respect to legal ethics, not otherwise delegated or reserved, shall be exercised and discharged by the committee.

§ 2.20. Committee on unauthorized practice of law.

There shall be a standing committee, to be appointed by the president and to be known as the Committee on the Unauthorized Practice of Law. The committee shall consist of nine members. Seven of the members shall be active members of the bar, five of whom shall be members of the council. Two of the members shall be nonlawyers. All powers and duties of the council with respect to the unauthorized practice of law, not otherwise delegated or reserved, shall be exercised and discharged by the

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committee.

§ 2.21. Committee on Lawyer Discipline.

There shall be a standing committee, to be appointed by the president and to be known as the Committee on Lawyer Discipline. The committee shall consist of 12 persons, 10 of whom shall be active members of the bar and two shall be nonlawyers. In addition, the Vice Chairman of the Virginia State Bar Disciplinary Board shall be an ex-officio, nonvoting member of the committee. At least two of the lawyers who are members shall be members of the council. All members shall serve a three-year term and the president shall appoint members to the committee so as to allow for the retirement from the committee of one-third of its membership at the end of each fiscal year. No member shall serve more than two consecutive three-year terms. All powers and duties of the council with respect to operation of the bar's disciplinary system, not otherwise delegated or reserved, shall be exercised and discharged by the committee.

§ 2.22. Committee on Professionalism.

There shall be a standing committee to be appointed by the president and to be known as the Committee on Professionalism. The committee shall consist of 16 active members of the bar, at least five of whom shall be members of the council, and at least one of whom shall, when initially appointed, be an officer or member of the Board of Governors of the Young Lawyers Conference. In addition, the Virginia State Bar Counsel shall be an ex-officio member of the committee. Five members shall be appointed for a one-year term effective July 1, 1990. Five members shall be appointed for a two-year term effective July 1, 1990. Six members shall be appointed for a three-year term effective July 1, 1990. All members subsequently appointed shall serve for a three-year term. No member may serve more than two consecutive three-year terms. All powers and duties of council with respect to the implementation of Paragraph 13.1 of Part Six, Section IV of the Rules of the Supreme Court of Virginia, and with respect to professionalism in the practice of law in Virginia, not otherwise delegated or reserved, shall be exercised and discharged by the committee.

§ 2.23. Committee on Lawyer Advertising and Solicitation.

There shall be a standing committee, to be appointed by the president and to be known as the Committee on Lawyer Advertising and Solicitation. The committee shall consist of 12 persons, 10 of whom shall be active members of the bar and two shall be nonlawyers. At least two of the lawyers who are members shall be members of the council. Three of the lawyers who are members and one nonlawyer member shall be appointed for a three-year term effective retroactively on July 1, 1992. Four of the lawyers who are members shall be appointed for a one-year term effective retroactively to July 1, 1992. All members subsequently appointed shall serve for a

three-year term. No member shall serve more than two consecutive three-year terms. All powers and duties of the council with respect to monitoring compliance with the Code of Professional Responsibility governing lawyer advertising and solicitation, including the issuance of advisory opinions regarding the same, not otherwise delegated or reserved, shall be exercised and discharged by the committee.

Article 9.
Votes by Mail or Telephone.

§ 2.24. Voting.

By unanimous consent of the members of any committee, all questions before such committee may be settled by mail ballot or telephone call.

Article 10.
Vacancies in Committees.

§ 2.25. Vacancies.

All vacancies in committees appointed by the president shall be filled by him. Vacancies in other committees shall be temporarily filled by the president, or his appointees, to act until the next meeting of the council.

Article 11.
Sections.

§ 2.26. Sections.

The council may create and abolish sections as it may consider necessary or desirable to accomplish the purposes and serve the interests of the Virginia State Bar and of the sections and shall prescribe the powers and duties of the sections. The bylaws of any section shall be subject to approval of council.

* * * * *

Title of Regulation: VR 167-01-401. Rules of Disciplinary Procedures for Virginia State Bar Staff and District Committees.

Statutory Authority: § 54.1-3909 of the Code of Virginia.

Effective Date: July 7, 1993.

Summary:

The regulation is designed to outline the procedures to be followed by the Virginia State Bar upon receipt of a charge of misconduct against an attorney including investigative procedures and actions to be taken by the subcommittees and district committees in response to the charges.

VR 167-01-401. Rules of Disciplinary Procedures for Virginia State Bar Staff and District Committees.

§ 1. Definitions.

Each reference hereafter to "*Paragraph 13*" means Paragraph 13 of the Rules of the Supreme Court of Virginia, Part Six, Section IV.

All terms defined in Paragraph 13 shall have the same meaning in these Rules and are hereby incorporated by reference herein.

"*Bar official*" means any Virginia State Bar officer, council member, board member, committee member, employee or counsel.

"*Chairman*," unless otherwise specified in the context, means the chairman or acting chairman of a district committee, or of a designated section or panel thereof.

"*Director of Public Information*" means the person designated by the Executive Director of the Virginia State Bar as Director of Public Information and also includes any assistants so designated.

"*Disbarment*" means revocation.

"*Disciplinary investigation*" means any inquiry or proceeding by any bar official concerning any possible misconduct or crime by, or any disability on the part of, an attorney, unless such inquiry or proceedings has resulted in, or been the basis for, any public record action against the attorney by the board or a committee.

"*Disciplinary records*" means any record of any proceeding in which the respondent has been found guilty of misconduct, including those proceedings in which the board's or court's finding of misconduct has been appealed to the Supreme Court of Virginia or in which the respondent has surrendered his license to the Supreme Court of Virginia or has been found guilty of a crime. "*Disciplinary records*" shall also include those cases in which a charge of misconduct has been dismissed under Rules IV(B)(2)(c) or (e), IV(B)(4), V(A)(4)(f)(1)(c) or (e), or V(A)(4)(f)(2) of the Council Rules of Disciplinary Procedure.

"*Disciplinary trial*" means any public record proceedings against an attorney predicated upon misconduct, crime, disability or a petition by an attorney under Paragraph 13 I for revocation of his license while charges are pending against him before the board, a committee or a court.

"*Executive Committee*" means "*Executive Committee*" as defined in Article 6 of the Bylaws of the Council.

"*Investigation*" means that investigation conducted by bar counsel or committee's counsel following the filing of a charge of misconduct with a district committee.

"*Preliminary investigation*" means that investigation conducted by bar counsel prior to the filing of a charge of misconduct with a district committee.

"*Revocation*" means revocation of an attorney's license (i) by the board whether for misconduct, crime, disability or suspension or revocation in another jurisdiction or (ii) by a court, whether pursuant to Paragraph 13 I or § 54.1-3935 of the Code of Virginia.

§ 2. Preliminary investigation by bar counsel.

Upon receipt of a charge of misconduct against an attorney, bar counsel shall initiate a preliminary investigation. Bar counsel shall conclude the preliminary investigation within 60 days of the date on which the charge of misconduct was received by the bar.

Bar counsel or committee's counsel may issue such summons or subpoena as such counsel may reasonably deem necessary for effective conduct of the preliminary investigation.

At the conclusion of the preliminary investigation, bar counsel shall:

1. Dismiss the charge of misconduct upon a finding that the charge has no basis in fact;
2. Dismiss the charge of misconduct upon a finding that the charge, if proved, would not constitute misconduct; or
3. File a written charge of misconduct with a district committee.

Bar counsel may, at the time of filing the charge of misconduct with the district committee, recommend that the charges of misconduct be dismissed by the subcommittee upon any of the bases set forth in § 4 B 2 without further investigation.

§ 3. Investigations by bar counsel or committee counsel.

A. When filing charges of misconduct with a district committee, bar counsel shall notify the chairman thereof of bar counsel's recommendation that the matter be dismissed immediately as provided in subdivision 3 of § 2 or that it be investigated by a member of bar counsel's staff, by a district committee member, or both. The district committee chairman shall promptly notify bar counsel of any disagreement with bar counsel's recommendation as to who should conduct the investigation. If bar counsel and the district committee chairman are unable to agree, the standing committee or a member thereof serving as its designee, shall determine by whom the investigation is to be conducted.

Bar counsel shall also inform both the respondent and the complainant in writing that the matter has been filed with the district committee.

B. Unless the charges of misconduct have been dismissed by the subcommittee, bar counsel or committee counsel shall submit to the subcommittee a report of

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investigation within 120 days of the filing of the charges of misconduct with the district committee. When submitting a report of investigation to the subcommittee, bar counsel or committee counsel shall include a recommendation as to the appropriate disposition of the charges of misconduct and shall indicate any agreement with the respondent with respect to such recommendation.

Bar counsel's recommendation shall be that:

1. The charges of misconduct be dismissed upon any of the bases set forth in § 4 B 2, *infra*;
2. The charges of misconduct be set for hearing before a district committee or certified to the board;
3. The investigation be concluded pursuant to a disposition agreed upon by bar counsel and the respondent; or
4. The matter be continued for further investigation.

§ 4. Action by the subcommittee.

A. The subcommittee may conduct its meetings and take action by any practical means, including written, telephonic or facsimile communication, so long as all members have simultaneously participated in the deliberative process.

B. Upon receipt of bar counsel's recommendation of dismissal or a report of investigation, the subcommittee shall:

1. Refer the matter to bar counsel for further investigation;
2. Dismiss the charges of misconduct when:
 - a. As a matter of law the conduct questioned or alleged does not constitute misconduct, or
 - b. (i) The evidence available shows that the respondent did not engage in the misconduct questioned or alleged, or (ii) there is no credible evidence to support any allegation of misconduct by respondent, or (iii) the evidence available could not reasonably be expected to support any allegation of misconduct under a "clear and convincing" evidentiary standard, or
 - c. (i) The alleged or questioned misconduct is clearly not of sufficient magnitude to warrant disciplinary action, and respondent has taken reasonable precautions against a recurrence of same, or (ii) the subcommittee concludes that the respondent has engaged in misconduct and that the matter should be dismissed with terms. If the subcommittee dismisses the charges of misconduct with terms and the respondent fails to comply with such terms, the subcommittee shall set the charges

of misconduct for a hearing before the district committee, or

d. The alleged misconduct is protected by superseding law, or

e. There exist exceptional circumstances militating against further proceedings, which circumstances shall be set forth in writing.

3. Subject to the approval of the district committee or panel, certify the charges of misconduct to the disciplinary board. Certification hereunder shall be based on a reasonable belief that the respondent has engaged or is engaging in misconduct which, if proved, would justify a suspension or revocation of respondent's license to practice law;

4. Impose one of the following conditions or sanctions:

a. A private reprimand, with or without terms;

b. A public reprimand, with or without terms; or

5. Set the charges of misconduct for hearing before the district committee. Notwithstanding any other provision of these rules, any member of the subcommittee may require that the charges of misconduct be set for such hearing.

No action under subdivision 4 of this section shall be taken by the subcommittee except by unanimous vote and with the concurrence of both bar counsel and the respondent.

C. In any case where terms are included in the disposition, the subcommittee shall specify the time period within which compliance shall be completed and the alternative disposition in the event the terms are not complied with. Bar counsel shall be responsible for monitoring compliance with terms and reporting any noncompliance to the subcommittee. If the respondent fails to comply with the terms within the stated time period, as determined by the subcommittee, the alternative disposition shall be imposed.

Wherever it appears that the respondent has not complied with the terms imposed, bar counsel shall serve notice on the respondent requiring him to show cause why the alternative disposition should not be imposed. Such show cause proceeding shall be set for hearing before the district committee at its next available hearing date. The burden of proof shall be on the respondent to show by clear and convincing evidence that he has complied with the terms imposed.

D. All decisions of the subcommittee shall be reported to the district committee within 30 days of such action. Any report of decisions to certify charges of misconduct shall be made by the chairman of the subcommittee or his designee, who shall furnish a brief and concise

narrative of the complaint and the subcommittee's reasons for its decision. The district committee shall then either approve or disapprove the decision to certify. If the district committee disapproves the decision, the district committee shall set the charges of misconduct for hearing in accordance with the procedures set forth in § 5, *infra*.

§ 5. Action by the district committee.

A. Hearing procedure.

1. Notice of hearing. Bar counsel shall issue the notice required by Paragraph 13(B)(6)(a).

2. Summons and subpoena. Any summons or subpoena issued on behalf of the district committee shall be issued by bar counsel. The committee chair may quash such summons or subpoena upon motion of the respondent or a third party, for good cause shown. The committee chair may for cause decline to issue any particular summons or subpoena requested by respondent or his counsel.

3. The record. Unless otherwise specified by the district committee chairman, bar counsel shall make the necessary arrangements to preserve a true and complete record of the hearing.

4. Hearing procedure.

a. Preliminary explanation. The presiding district committee member shall state in the presence of the respondent and the complainant, if there be one:

- (1) A summary of the alleged misconduct,
- (2) The nature and purpose of the hearing as an investigative proceeding,
- (3) The procedures to be followed during the hearing,
- (4) The disposition available to the district committee following the hearing.

b. Exclusion of nonessential persons. Only the following may be present throughout the hearing: members of the district committee, the respondent, the complainant, counsel for the respondent and the complainant, bar counsel, the executive director, committee's counsel, members of the standing committee on lawyer discipline, and the court reporter. Counsel for individual witnesses, other than the respondent and the complainant, may attend the hearing during their client's testimony.

c. Presentation of evidence.

(1) Bar's evidence. Bar counsel or committee's counsel shall present on behalf of the bar the evidence supporting the allegations in the notice.

District committee members may examine witnesses testifying in support of the allegations. Respondent shall be afforded the opportunity to cross-examine the bar's witnesses and to challenge any documentary or material evidence introduced on behalf of the bar.

(2) Respondent's evidence. Respondent shall be afforded the opportunity to present witnesses, other evidence and argument on behalf of respondent. Bar counsel or committee's counsel and district committee members may cross-examine respondent's witnesses or challenge respondent's documentary or material evidence.

(3) Other counsel. Neither counsel for the complainant, if there be one, nor counsel for any witness, may examine or cross-examine any witness, introduce any other evidence, or present any argument.

(4) Admissibility of evidence. The presiding district committee member shall rule on the admissibility of evidence, which rulings may be overruled by a majority of the remaining district committee members participating in the hearing. The district committee shall not be bound by the strict rules of evidence.

d. Final argument. The district committee shall afford a reasonable opportunity for argument on behalf of the respondent and the bar.

e. Deliberations. The district committee members shall thereafter deliberate in private. After due deliberation and consideration the district committee shall vote on the disposition of the matter. Committee's counsel, if any, shall be excluded from the private deliberations and voting on the matter. In determining what disposition of the matter is warranted, the district committee may consider any prior disciplinary records of respondent.

f. Disposition. After due deliberation and consideration, the district committee may either:

(1) Dismiss the matter, or a part thereof, as not warranting further action when in judgment of the district committee:

(a) As a matter of law the conduct questioned or alleged does not constitute misconduct,

(b) (i) The evidence available shows that the respondent did not engage in the misconduct questioned or alleged, or (ii) there is no credible evidence to support any allegation of misconduct by respondent, or (iii) the evidence available could not reasonably be expected to support any allegation of misconduct under a "clear and convincing" evidentiary standard,

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(c) The alleged or questioned misconduct is clearly not of sufficient magnitude to warrant disciplinary action, and respondent has taken precautions against a recurrence of same,

(d) The alleged misconduct is protected by superseding law, or

(e) There exist exceptional circumstances militating against further proceedings, which circumstances shall be set forth in writing by the district committee chairman, whereupon the district committee chairman shall promptly notify respondent, the complainant and bar counsel, simultaneously, in writing, and shall furnish to each its reasons for dismissing the complaint.

(2) Determine that the respondent has engaged in misconduct, issue its district committee determination, and dispose of the matter in accordance with the procedures prescribed in the Rules of Court, Part 6, Section IV, Paragraph 13(B)(7) through (12); or

(3) Assign to bar counsel for investigation any matter perceived by the district committee during the hearing but outside the substantive scope of the conduct specified in the notice of the hearing.

B. Imposition of terms. In any case where terms are included in the disposition, the district committee shall specify the time period within which compliance shall be completed and the alternative disposition in the event the terms are not complied with. Bar counsel shall be responsible for monitoring compliance with terms and reporting any noncompliance to the district committee. If the respondent fails to comply with the terms within the stated time period, as determined by the district committee, the alternative disposition shall be imposed.

Whenever it appears that the respondent has not complied with the terms imposed, bar counsel shall serve notice on the respondent requiring him to show cause why the alternative disposition should not be imposed. Such show cause proceeding shall be set for hearing before the district committee at its next available hearing date. The burden of proof shall be on the respondent to show by clear and convincing evidence that he has complied with the terms imposed.

C. Continuance of hearing. Once a district committee has scheduled a hearing, no continuance shall be granted unless in the judgment of the chairman or the district committee the continuance is necessary to prevent injustice.

D. Change in composition of district committee hearing a matter. Whenever a hearing has been adjourned for any reason and any of the members initially constituting the quorum for the hearing is unable to be present, the hearing of the matter may be completed by:

1. Furnishing to any such absent member or members, a transcript of the proceedings conducted in his absence, or

2. Substituting another committee member for any absent member, or members, and furnishing to such substitute a transcript of the prior proceedings in the matter.

For purposes of applying this rule, any show cause proceeding involving the issue of compliance with terms shall be deemed a new hearing and not a continuation of the hearing which resulted in the imposition of terms.

E. Request by complainant to withdraw complaint. No potential disciplinary matter shall be dismissed solely upon a request by a complainant to withdraw the complaint. Such matter may be dismissed following such request on the basis of any of the factors listed in § 4 B 2.

§ 6. Similarity between charges of misconduct and pending civil or criminal litigation.

Except in cases where, in the discretion of the committee, unusual circumstances exist, processing of complaints shall not be deferred or abated because of substantial similarity to the material allegations of pending criminal or civil litigation.

§ 7. Disclosure of exculpatory evidence.

Bar counsel shall make a timely disclosure to the respondent of all known evidence that tends to negate the misconduct of the respondent or mitigate its severity.

§ 8. Records retention.

A. Current matters.

1. Dockets. The Clerk of the Disciplinary System shall maintain current records of matters pending before the committees, the board, or any court of this Commonwealth.

2. Files. The Clerk of the Disciplinary System shall maintain a current file for each matter being investigated and for each matter pending before the board or a court of the Commonwealth.

B. Closed matters: files.

The Clerk of the Disciplinary System shall retain the closed files of any charge of misconduct resulting in a disciplinary record for a period of five years from the date of the final finding of misconduct. All other closed files may be destroyed one year after the file's closure.

Whenever a closed file is destroyed, the following information shall be preserved in lieu thereof:

a. The name and bar identification number of

respondent;

b. The name and last known address of the complaining party, if there be one;

c. The date the matter was initially received by the bar;

d. The date of the dismissal or discipline;

e. A summary of the charge of misconduct; and

f. The disposition of the matter. Such disposition shall state precisely the basis for dismissal or the sanction imposed.

Such summary information shall be retained for five years whenever the charge of misconduct is dismissed upon a finding of no misconduct and for 10 years whenever the respondent is found to have engaged in misconduct.

C. Order books. The Clerk of the Disciplinary System shall preserve a copy of all district committee determinations and board or court orders in which an attorney has been found to have engaged in misconduct.

§ 9. Public dissemination of disciplinary information.

A. Disciplinary investigation. A Virginia State Bar official shall not, during the investigation of a disciplinary matter or after conclusion of such investigation without further action having been initiated as a matter of public record, initiate communication with a member of the public or communications media concerning such matter; however, if the subject matter of such investigation is independently a matter of public record and as a result thereof inquiry is made to said official by anyone concerning the subject matter, then such official shall only state without elaboration either:

1. That an appropriate official, committee or board is conducting an inquiry into the matter, or

2. That an investigation of the matter has terminated with a determination that further proceedings were not warranted.

B. Post trial. Subject to any prohibition in Paragraph 13 and following entry of an order by a district committee, the board (other than under Paragraph 13 E) or by a court imposing public discipline, a statement quoting pertinent portions of such order or pleadings shall be issued to the public communications media by the bar.

§ 10. Dissemination of disciplinary information to disciplinary authorities.

Whenever an attorney has been publicly disciplined, the Clerk of the Disciplinary System shall cause a summary or a copy of the public order imposing such discipline to be

forwarded to the appropriate disciplinary authorities for other jurisdictions, federal or state, wherein it is reasonable to expect that such attorney may be licensed and he may cause such summary or copy to be forwarded to any agency, private or governmental, which disseminates such information to disciplinary authorities, to lawyers, or to the public.

§ 11. Election of district committee members.

Before nominating any individual for membership on a district committee, the council members making such recommendation shall first determine that the nominee is willing to serve on the district committee and will conscientiously discharge his responsibility as a member of the district committee. The Bar Council members making the nominations shall also obtain a statement from the nominee, in writing, that he is willing to serve on the district committee, if elected.

§ 12. Investigative assistants.

Bar counsel and the executive director shall be responsible for maintaining the availability of sufficient investigative assistance through bar employees, State Police or retained investigators to effectively investigate potential disciplinary matters.

§ 13. Substantial compliance with procedural requirements.

The actions required by these Rules of Disciplinary Procedure are procedural in nature and not substantive. Substantial compliance herewith shall be deemed sufficient. Noncompliance with any one or more of such actions shall not of itself be grounds for dismissing proceedings against a respondent. Respondent may introduce evidence of such noncompliance and present argument that such noncompliance so prejudiced his rights as to deny him a constitutional right of due process.

§ 14. Expenses.

Reasonable expenses incurred by the bar and its witnesses under these procedures or under Paragraph 13 shall be paid upon submission of any claim.

§ 15. Appeals.

Upon the entry of any appealable order of a court constituted under § 54.1-3936 of the Code of Virginia or of a circuit court in a proceeding instituted under Paragraph 13 J.(2) or (3) that is deemed by bar counsel to be adverse to the Virginia State Bar, bar counsel may, if so advised, take such steps as shall be necessary to preserve any right of appeal or right to petition therefor. In such event, bar counsel shall promptly notify the executive committee in writing of the action so taken.

§ 16. Disqualification of district committee member or member of law firm of district committee member.

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Service on a district committee shall be deemed to be professional employment within the meaning of DR 4-101, DR 5-101, DR 5-102, DR 5-105, DR 8-101(A), and DR 9-101(A) and (B). Such service shall also be deemed public employment and public responsibility within the meaning of DR 8-101(A) and DR 9-101(A) and (B). "Consent" under DR 4-101, DR 5-101, DR 5-105 shall be deemed to include, and hereby require, consent by the bar. Bar counsel shall have the power to give such consent on behalf of the bar.

§ 17. Vacancy on district committee.

Whenever a vacancy occurs on a district committee, either through delinquency, resignation, disability or death, the executive committee may fill the vacancy.

A majority of a committee or a panel of a committee may request the executive committee to declare that a committee position held by any particular committee member has become vacant when, in the judgment of the majority, such member has become, or has been for any reason, unavailable for or delinquent in the conduct of the committee's business. Similarly, upon request of bar counsel, the executive committee shall have the power to declare such vacancy. Before such vacancy is declared, the particular committee member shall be afforded notice and a reasonable opportunity to be heard.

§ 18. Virginia Lawyer Referral Service.

Bar counsel shall implement procedures to enable the Virginia Lawyer Referral Service to remove from its referral lists the name of any member who is charged with misconduct and referred to a district committee, the board or a court, or who agrees to or is placed under disciplinary terms. Such procedures shall also enable such members to be thereafter reinstated on the referral list forthwith (i) following termination of such proceedings without respondent having been subjected to any limitation on his license to practice or terms having been imposed, of (ii) following the removal of any such limitations or successful compliance with terms imposed.

§ 19. Reconsideration of action by the subcommittees and district committees.

No matter dismissed by a subcommittee or district committee shall be reconsidered except by a unanimous vote of those having participated in the decision to dismiss the matter unless the basis for reconsideration is evidence not known or available to the district committee when the matter was dismissed in which case it may be reconsidered by a simple majority of a quorum. No action by a district committee imposing a reprimand or certifying a matter to the board shall be reconsidered unless a majority of the district committee votes to reconsider the action. No member shall vote to reconsider same unless it shall appear to such member to be necessary to prevent an injustice or to be warranted by specific exceptional circumstances militating against adherence to the initial

action by the district committee. Any decision to change an earlier district committee action must occur at a district committee meeting.

§ 20. Statistical reports.

Upon request of the Standing Committee on Lawyer Discipline, the Clerk of the Disciplinary System shall provide a report of all cases not reported upon within 120 days of the date of filing the charge of misconduct with the district committee.

§ 21. Administrative responsibilities of the district committee officers.

It shall be the responsibility of the district committee chairman, secretary, or any other member of the district committee so selected, to call such meetings of the subcommittee and the district committee as are necessary to effectively discharge the responsibility of that committee. Such officers, or members so designated, shall arrange for meeting sites for district committee meetings and hearings, determine that a quorum will be present for such meeting or hearing and promptly advise bar counsel whenever it appears that a quorum will not be present. In those instances where a subcommittee or district committee wishes to conduct its affairs via telephone conference call, the chairman, secretary, or other member of the committee so designated, shall ascertain a mutually convenient time and date for those persons participating in such conference call. Thereafter, such responsible person will notify bar counsel of the time, date, and parties who will participate in such conference call and bar counsel will make appropriate arrangements for that call.

It is the intent of council that the district committee will attend to the administrative affairs of its committee so as to promote the orderly and efficient discharge of its responsibilities.

* * * * *

Title of Regulation: VR 167-01-501. Disciplinary Board Rules of Procedure.

Statutory Authority: § 54.1-3909 of the Code of Virginia.

Effective Date: July 7, 1993.

Summary:

The regulation is designed to outline the procedures to be followed by the Disciplinary Board for misconduct hearings, hearings following criminal convictions, reinstatement hearings, and hearings following disbarment or suspension in another jurisdiction. Appeals of district committee determinations relating to bar disciplinary matters are also included.

VR 167-01-501. Disciplinary Board Rules of Procedure.

PART I. GENERAL PROVISIONS.

§ 1.1. Definitions.

All definitions in Paragraph 13 of Section IV of Part Six of the Rules of the Virginia Supreme Court and in the Virginia State Bar Council Rules of Disciplinary Procedure are incorporated herein.

§ 1.2. Meetings of the board.

The board, or any quorum thereof, shall meet upon the call of the chairman, the vice-chairman or any quorum, at such time and place as may be designated by such chairman, vice-chairman or quorum within a reasonable time prior to the date of the meeting so called.

§ 1.3. Assignments and disqualification.

The chairman shall establish a roster of board members sufficient to constitute a quorum for action on the matter to which they are being assigned. Any board member shall be ineligible to serve whenever (i) he or any member of his firm is involved in any significant way with the matter over which the quorum would act; (ii) he or any member of his firm was serving on the district committee which certified the matter to the board or has otherwise acted on the matter; or (iii) a full-time judge would be required to withdraw from consideration of, or presiding over, the matter under the Canons of Judicial Conduct adopted by the Virginia Supreme Court as Section III of Part Six of its Rules of Court. Any board member may, upon reasonable notice to the Clerk of the Disciplinary System or to the chairman, vice-chairman or other board member presiding over a matter, disqualify himself from participation in consideration of any such matter, whenever such member believes that he would be unable to participate objectively in consideration of such matter.

PART II. MISCONDUCT HEARINGS.

§ 2.1. Certification of charges of misconduct by a district committee.

Upon receipt of certification by a subcommittee or district committee of any charge of misconduct, the Clerk of the Disciplinary System shall open a current file for such matter on behalf of the board and shall forthwith notify bar counsel of receipt of such certification. The Clerk of the Disciplinary System shall, within a reasonable time after receipt, cause to be served by certified mail upon the respondent a clear and concise statement of the charges certified to the board and date, time and location of the hearing and shall provide a copy of such mailing to bar counsel. If the respondent fails to file with the board within 21 days after the mailing of the aforesaid notice by bar counsel a written demand that further proceedings before the board be terminated and further proceedings be conducted pursuant to § 54.1-3935 of the Code of

Virginia, then a quorum of the board shall be designated to hear the matter. Thereafter, the Clerk of the Disciplinary System shall promptly make the necessary arrangements for such hearing. If the respondent files a demand that further proceedings before the board be terminated, then bar counsel shall promptly prepare and file with the appropriate circuit court the pleadings required by § 54.1-3935 of the Code of Virginia, after which the board's file in the matter will be closed. The original of such demand shall be filed with bar counsel.

§ 2.2. Summons; subpoena.

Sua sponte, or upon written request by bar counsel or by respondent or his counsel, the board and the Clerk of the Disciplinary System may issue summons or subpoena returnable at a time and place to be prescribed.

§ 2.3. Agreements as to disposition.

Whenever bar counsel and the respondent are in agreement as to the material facts controlling a charge of misconduct and desire to enter into an agreed disposition of the complaint, the parties may submit a proposed disposition agreement to five members of the board selected by the chairman. The five members so selected will constitute a panel of the board. If the proposed disposition agreement is accepted by the majority of the panel so selected, the disposition agreement will be adopted by order of the board. If the disposition agreement is not accepted by the panel, the charge of misconduct will then be set for hearing before another panel of the board at the earliest possible date. No member of the panel which considered the proposed disposition agreement shall be assigned to the panel which hears the charge of misconduct.

§ 2.4. Hearing procedure.

A. Request by complainant to withdraw complaint. No allegations or charges of misconduct shall be dismissed solely upon a request by a complainant to withdraw a complaint.

B. Preliminary explanation. The chairman, or other member selected to preside over the hearing, shall state in the presence of the respondent and the complainant, if there be one, a summary of the alleged misconduct, the nature and purpose of the hearing, the procedures to be followed during the hearing, and the dispositions available to the board following the hearing.

C. Exclusion of persons. All persons other than board members, respondent, bar counsel, executive director, the complainant, if there be one, the witness testifying, counsel to any of the aforesaid, members of the Standing Committee on Lawyer Discipline, the Clerk of the Disciplinary System and a court reporter shall be excluded throughout a private hearing. Witnesses who are not testifying shall be excluded from a public hearing on motion of bar counsel, the respondent, or the board until

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excused.

D. Continuance of a hearing. Once a hearing has been scheduled by the board, no continuance shall be granted except for good cause by the designated presiding board member. No continuance will be granted because of a conflict with the schedule of the respondent or respondent's counsel unless such continuance is requested in writing by counsel for the respondent within five days of the date of the notice of the hearing. Any request for a continuance shall be made to the presiding member of the board panel hearing the matter.

E. Change in composition of board hearing panel. Whenever a hearing has been adjourned for any reason and any of the members initially constituting the quorum for the hearing is unable to be present, the hearing of the matter may be completed by:

1. Furnishing to any such absent member or members, a transcript of the proceedings conducted in his absence, or
2. Substituting another board member for any absent member, or members, and furnishing to such substitute a transcript of the prior proceedings in the matter.

F. Opening statements. Brief opening statements by bar counsel and on behalf of respondent shall be permitted.

G. Presentation of evidence.

1. Bar counsel shall introduce the evidence supporting the allegations of misconduct, which evidence shall then be subject to cross-examination or other appropriate challenge by respondent.
2. Evidence may be introduced on behalf of the respondent which evidence shall then be subject to cross-examination or other appropriate challenge by bar counsel.
3. Bar counsel may introduce any available evidence in rebuttal to the evidence introduced on behalf of respondent.
4. Bar counsel may first make closing argument.
5. Closing argument may then be made on behalf of respondent.
6. Bar counsel may make a rebuttal closing argument.
7. Neither counsel for the complainant, if there be one, nor counsel for any witness, may examine or cross-examine any witness, introduce evidence, or present any argument.
8. The presiding board member shall rule on the admissibility of evidence, which rulings may be

overridden by a majority of the remaining board members participating in the hearing.

H. Deliberations. As soon after the conclusion of the evidence and arguments as may be practicable, the board shall deliberate in private. The board may address any legal questions it may have to the Office of the Attorney General.

I. Disposition. If the board concludes that:

1. The evidence fails to show under a "clear and convincing" evidentiary standard that the respondent had engaged in misconduct, the board shall dismiss the matter.

2. There has been presented "clear and convincing" evidence that the respondent had engaged in misconduct then the board shall:

- a. State in writing:

- (1) A brief statement of its findings of fact; and
- (2) The nature of the misconduct evinced by such facts; and

- b. Impose the following sanction:

- (1) Dismissal with terms;
- (2) Issuance of an admonition or public reprimand, with or without terms;
- (3) Suspension of the license of the respondent for a stated period not exceeding five years; or
- (4) Revocation of the license of the respondent.

J. Orders, findings, and opinions. In the event the board finds that the respondent has engaged in misconduct, it shall, prior to determining the appropriate sanction to be imposed, inquire of either the respondent or bar counsel or both whether the respondent has therefore been the subject of any disciplinary sanction in this or any other jurisdiction and shall give the bar and the respondent an opportunity to present evidence and arguments in aggravation or mitigation.

Following the decision of the board as to the disposition of a matter, the presiding member or a member designated by him shall prepare the appropriate written statements, findings, opinions or orders, which shall be signed by the presiding member. Dissenting opinions may be filed.

No motion for reconsideration or modification of the board's decision shall be considered unless it is filed with the Clerk of the Disciplinary System and the presiding member of the hearing panel within 10 days of the hearing before the board. The moving party shall file an

original and eight copies of the motion and all supporting exhibits with the Clerk of the Disciplinary System. Such motion shall be considered only to prevent manifest injustice upon the ground of:

1. Illness, injury or accident which prevented the respondent or a witness from attending the hearing and which could not have been made known to the board within a reasonable time prior to the hearing, or
2. Evidence which:
 - a. Was not known to the respondent at the time of the hearing and could not have been discovered prior to, or produced at, the hearing in the exercise of due diligence; and
 - b. Would have clearly produced a different result if the evidence had been introduced at the hearing.

If such a motion is timely filed, the Clerk of the Disciplinary System shall promptly forward copies to each member of the hearing panel. The presiding member of the hearing panel shall consult with the members prior to acting on the motion. The panel may act on the motion without requiring a response from bar counsel, and either:

1. Refuse the motion, or
2. Order a new hearing or such other relief as it deems appropriate.

No relief shall be granted without allowing bar counsel an opportunity to oppose the motion in writing, except that the board may, in its discretion, delay entry of its order until such opposition is received. If no relief is granted, the board shall enter its order disposing of the case.

K. Imposition of terms. In any case where terms are included in the disposition, the board shall specify the time period within which compliance shall be completed and the alternative disposition in the event the terms are not complied with. Bar counsel shall be responsible for monitoring compliance with terms and reporting any noncompliance to the board. If the respondent fails to comply with the terms within the stated time period, as determined by the board, the alternative disposition shall be imposed.

Whenever it appears that the respondent has not complied with the terms imposed, bar counsel shall serve notice on the respondent requiring him to show cause why the alternative disposition should not be imposed. Such show cause proceeding shall be set for hearing before the board at its next available hearing date. The burden of proof shall be on the respondent to show by clear and convincing evidence that he has complied with the terms imposed.

PART III.

APPEAL OF A DISTRICT COMMITTEE DETERMINATION.

§ 3.1. Placing matter on docket for review.

Upon receipt of notice from the Clerk of the Disciplinary System that the respondent has timely filed an appeal from a district committee determination, the board shall place such matter on its docket for review.

§ 3.2. The record.

The record shall be prepared by the chairman of the district committee from which the appeal was taken and shall be filed with the Clerk of the Disciplinary System. The record shall consist of notice of the district committee hearing; the transcript of testimony (if any); and exhibits received or refused by the district committee; the district committee determination; and all briefs, memoranda, and other papers filed with the district committee by the respondent or the bar. Upon petition of the respondent, for good cause shown, the board may permit the record to be supplemented to prevent an injustice.

§ 3.3. Notice of filing of the record.

The Clerk of the Disciplinary System shall notify the respondent when the record of the proceeding before the district committee is received.

§ 3.4. Filing of briefs.

Briefs shall be filed as follows:

1. The respondent shall file an original and eight copies of an opening brief in the office of the Clerk of the Disciplinary System within 40 days after the filing of the record in such office.
2. The bar shall file an original and eight copies of its brief in the office of the Clerk of the Disciplinary System within 25 days after the filing of the opening brief.
3. The respondent may file an original and eight copies of a reply brief within 14 days after the filing of the bar's brief.

§ 3.5. Oral argument.

Oral argument shall be granted unless waived by the respondent.

PART IV. HEARINGS FOLLOWING CRIMINAL CONVICTION.

§ 4.1. Suspension upon proof of conviction of crime.

Upon receipt of a certified copy of an order of any court of competent jurisdiction stating that an attorney has been found guilty of a crime, the chairman, or

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vice-chairman or other appropriate board member shall forthwith enter an order suspending the license of the attorney. The Clerk of the Disciplinary System shall then cause to be served upon the attorney by certified mail a copy of the proof of conviction, a copy of the board's suspension order, and a notice fixing the time and place of hearing to determine whether the license of the attorney should be revoked or further suspended, which hearing shall not be less than 14, nor more than 30, days after the date of the board's suspension order.

§ 4.2. Continuance of hearing.

Upon receipt of a written request from the attorney that the matter be continued pending appeal, the board shall continue the matter; otherwise the hearing shall be set not less than 14, nor more than 30, days after the date of the board's suspension order.

§ 4.3. Final disposition.

A. Reversal of criminal conviction. Upon receipt of proof by the attorney that the conviction has been reversed, the suspension of the attorney's license shall automatically be terminated and an order to such effect shall be forthwith entered by the board.

B. Hearing procedures. Insofar as applicable, the procedures set forth in § 1.3 and § 2.4 G through 2.4 J shall govern the hearing under this part.

C. Copies of notices, orders, responses or answers by the attorney. The Clerk of the Disciplinary System shall furnish to the board members designated for the matter copies of the proof of conviction, proof that the conviction is final, the order of the board suspending the attorney, notice of hearing, any notice of any continuance and any matters filed by the attorney. The attorney shall furnish to the Clerk of the Disciplinary System an original and eight copies of any communications or other materials he may file with the board in such matter.

D. Conviction becoming final. If, at the time fixed for hearing, the attorney fails to appear, or if the board after hearing shall find that the conviction has become final, the board shall forthwith enter an order revoking the license of the attorney, a copy of which shall be forthwith served upon the attorney by certified mail by the Clerk of the Disciplinary System.

PART V. DISABILITY HEARINGS.

§ 5.1. Suspension upon proof of prior adjudication of or hospitalization for disability.

Upon receipt of a notice from the Clerk of the Disciplinary System with supporting documentary evidence that (i) an attorney has been adjudicated by a court of competent jurisdiction to suffer from disability, or (ii) the attorney has been voluntarily or involuntarily admitted to

a hospital (as defined in § 37.1-1 of the Code of Virginia) for treatment of any addiction, inebriety, insanity or mental illness, the chairman or vice chairman or other appropriate board member shall forthwith enter an order suspending the license of the attorney and shall forthwith cause to be served upon the attorney by certified mail a copy of the board's order suspending his license.

§ 5.2. Suspension in absence of prior adjudication of or hospitalization for disability.

A. Upon receipt of notice or evidence that an attorney is or may be suffering from disability and in the absence of prior adjudication of or hospitalization for disability, the bar counsel shall cause an investigation to be made to determine whether there is probable cause to believe that the disability exists.

B. If the bar counsel determines that there is probable cause to believe that the attorney suffers disability, he shall promptly notify the board which shall promptly hold a hearing substantially in accordance with the procedures established for notice and hearings in proceedings relating to misconduct.

C. The following additional provisions apply to such notice and hearings:

1. Guardian ad litem. The notice of any hearing to determine whether an attorney suffers from disability shall request the attorney to advise the board whether he has retained counsel to represent him at the hearing. Unless counsel for the attorney enters an appearance with the board within 10 days of the date of the notice, the board shall appoint a guardian ad litem to represent the attorney at the hearing.

2. Psychiatric examination. Following a hearing and prior to a decision the board may by order require the attorney to undergo a psychiatric examination by a psychiatrist selected by the board. A written report of the results of such examination, along with written reports from any other psychiatrists who have examined the attorney, may be considered as evidence by the board. Such reports shall be filed with the Clerk of the Disciplinary System.

§ 5.3. Termination of suspension.

A. Upon receipt of documentary evidence that a court of competent jurisdiction has adjudicated that the attorney's disability has terminated, the board shall promptly enter an order terminating the suspension of the attorney's license.

B. In all other cases the board shall hold a hearing on the termination of the disability promptly upon receipt of a request from the attorney. Such hearing shall be conducted substantially in accordance with the procedures established for hearings related to misconduct, and subject to the following additional procedures:

1. The burden of proving the termination of disability shall be on the attorney;
2. The board may appoint a guardian ad litem for any attorney not represented by counsel in such proceedings;
3. Evidence generally will be limited to changes in the attorney's mental condition subsequent to the original determination of disability; and
4. The board may, either prior or subsequent to hearing, require the attorney to undergo a psychiatric examination by a psychiatrist selected by the board. A written report of the results of such examination, along with written reports from any other psychiatrists who have examined the attorney, may be considered as evidence by the board.

PART VI. HEARINGS FOLLOWING DISBARMENT OR SUSPENSION IN ANOTHER JURISDICTION.

§ 6.1. Suspension upon proof of suspension or disbarment in another jurisdiction.

Upon receipt of a notice from the Clerk of the Disciplinary System that an order in another jurisdiction suspending or revoking the license of any attorney has become final, the chairman, vice chairman or other board member shall forthwith enter an order suspending the license of the attorney and shall forthwith cause to be served upon the attorney by certified mail a copy of the proof of such suspension or disbarment, a copy of the board's order suspending the license of the attorney, a notice fixing a time and place for a hearing to determine what action the board should take, and a statement that the purpose of the hearing is to furnish to the attorney an opportunity to show cause why the same discipline that was imposed in the other jurisdiction should not be imposed by the board.

§ 6.2. Continuance of hearing.

Unless continued by the board for good cause, the hearing shall be set not less than 21, nor more than 30, days after the date of the board's suspension order.

§ 6.3. Final disposition.

A. The Clerk of the Disciplinary System shall furnish to the board members designated for the matter copies of the proof of suspension or revocation of the attorney's license, the board's order suspending the license of the attorney, the notice of hearing, any notice of continuance of the hearing, and any materials filed by the attorney. The attorney shall furnish to the Clerk of the Disciplinary System an original and eight copies of any communications or other materials he may file with the board in reference to such matter.

B. Insofar as applicable, the procedures set forth in § 1.3 and § 2.4 G through 2.4 J shall govern the hearing under this part.

PART VII. REINSTATEMENT HEARINGS.

§ 7.1. Reinstatement hearings.

Upon receipt of a petition for reinstatement from the Clerk of the Supreme Court of Virginia, the Clerk of the Disciplinary System shall advise the petitioner in writing of receipt of the petition and will arrange a suitable hearing date with the petitioner and bar counsel.

1. Appointment and quorum. A quorum shall be five members of the board.

2. Powers of the board in reinstatement cases. The board is empowered to hold a hearing and make its recommendation either to approve or disapprove the petition to the Supreme Court.

3. Hearing date. The date of the hearing shall be determined by the chairman. The Clerk of the Disciplinary System shall cause to be filed eight copies of the transcript, exhibits, pleadings and orders from the original disciplinary proceeding to the extent same are available upon the scheduling of a hearing date.

4. Investigation. The Office of Bar Counsel shall conduct such investigation and make such inquiry as it deems appropriate.

5. Notice. Reasonable notice of filing of the petition and the date of the hearing shall be mailed by the Clerk of the Disciplinary System to all members of the bar of the circuit or circuits in which the petitioner maintains his principal office at the time of his revocation or suspension. Such notice shall also be mailed by the Clerk of the Disciplinary System to the members of the district committee who heard the original complaint, the complaining witness or witnesses, and such other individuals as the Clerk of the Disciplinary System deems appropriate.

6. Grounds of reinstatement. On written request by bar counsel, petitioner shall file with the Clerk of the Disciplinary System within 21 days after receipt of the request an original and eight copies of a bill of particulars setting forth his grounds for reinstatement.

7. Hearing.

a. On the date set for the hearing, the petitioner shall have the right to representation by counsel, to examine and cross-examine witnesses and to present evidence in his own behalf. Evidence in opposition to the petition may be heard by the board. The testimony shall be taken and preserved together with all exhibits (or copies thereof) received in

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evidence. The testimony will be transcribed.

b. Bar counsel shall appear and represent the Commonwealth and its citizens. Legal advice to the board, if required, shall be rendered by the Office of the Attorney General.

8. Character witnesses. Character witnesses supporting the petitioner will be heard, the number thereof to be limited to five. In addition, the board will consider any letters as to the character of the petitioner.

9. Determination by the board. The board will within 60 days of the receipt of the transcript forward the record and its recommendation to the Supreme Court with a copy to the petitioner and bar counsel.

PART VIII.

REVIEW OF COSTS IMPOSED; REVIEW OF NOTICES.

§ 8.1. Review of costs imposed.

Whenever a respondent disagrees with the costs assessed by the Clerk of the Disciplinary System pursuant to the Rules of Court, Part Six, Section IV, Paragraph 13(K)(10), the respondent may petition the board for review. Such petition and eight copies must be filed within 10 days of the date on which the notice assessing costs was mailed to the respondent by the Clerk of the Disciplinary System. The board shall thereupon review the costs assessed to determine if they were computed accurately or if immediate payment would constitute a hardship on the respondent. There shall be no oral hearing of the respondent's petition.

Upon review of the respondent's petition, the board shall enter an order confirming the costs assessed by the Clerk of the Disciplinary System, or assessing such other costs as the board deems proper. The board shall also specify the date by which the costs must be paid to the Clerk of the Disciplinary System.

§ 8.2. Review of notices.

Whenever it appears that an attorney has not given the notice of suspension or revocation, or has failed to attend to the orderly disposition of client matters as required by the Rules of Court, Part 6, Section IV, Paragraph 13(K)(1), but such attorney asserts that the appropriate notice was given, the Clerk of the Disciplinary System shall set such controversy for hearing. The attorney shall bear the burden of proving that he did give notice of the disbarment or suspension to all clients for whom the attorney was handling matters and to all opposing attorneys and the presiding judges in then pending litigation. The attorney must also show that efforts expended in the disposition of his client matters were appropriate under the circumstances.

Upon review of the evidence presented, the board will announce its findings of fact in an appropriate order.

* * * * *

Title of Regulation: VR 167-01-601. Mandatory Continuing Legal Education Regulation.

Statutory Authority: § 54.1-3910 of the Code of Virginia; Part 6, § IV, Paragraph 17 of Rules of Virginia Supreme Court.

Effective Date: July 7, 1993.

Summary:

The regulation outlines reporting requirements for maintaining active membership in the Virginia State Bar, and sets forth the standards and procedures for course approval and accreditation of sponsors. Computation examples are provided to aid in the determination of credits. Additionally, the regulation delineates restoration/reinstatement procedures and sets forth exemption and waiver possibilities.

VR 167-01-601. Mandatory Continuing Legal Education Regulation.

§ 1. Definitions.

As used in this regulation, the following definitions shall apply:

"Accredited sponsor" means an organization whose entire continuing legal education program has been accredited by the board, pursuant to § 5 of this regulation.

"Active member," as defined by Paragraph 3(a) of Section IV, Part Six, Rules of Virginia Supreme Court, means a person who is admitted to practice law in the courts of this Commonwealth and who is engaged in the practice of law, either full time or part time, salaried or nonsalaried.

"Approved course" means a course expressly approved by the board for the relevant reporting period or a course offered by an accredited sponsor during the reporting period for which the sponsor is accredited.

"Board" means the Virginia State Bar Mandatory Continuing Legal Education Board established by Paragraph B of the Rule.

"Course" or "program" means a discrete continuing legal education offering, regardless of length or daily schedule.

"Course or program offered in-house" means one sponsored by a single private law firm, a single corporate law department or a single federal, state or local governmental agency or military branch for lawyers who are members or employees of the firm, department, agency or branch.

"Credit hours," "hours," "credits," or "hours credit"

means the units used for measuring completion of mandatory continuing legal education as required by the Rule.

"*Ethics credits*" mean credit hours which apply toward mandatory continuing legal education in the area of legal ethics or professionalism as required by the Rule.

"*Faculty member*" means a person qualified by practical or academic experiences to teach the subject he covers.

"*Limited intellectual property admission member*" means an attorney admitted pursuant to § 54.1-3901 of the Code of Virginia for the practice of patent, trademark, copyright and unfair competition causes only.

"*Member*" as defined by Paragraph 2 of Section IV, Part Six, Rules of the Virginia Supreme Court, means all attorneys at law in this Commonwealth.

"*Newly-admitted member*" means a person first admitted to practice during the current reporting period.

"*Panel(s)*" means a committee or committees organized by the board for the purpose of expeditiously considering and deciding matters arising under the Rule and this regulation.

"*Program sponsor*" or "*sponsor*" means any person or entity presenting or offering to present one or more continuing legal education programs.

"*Qualified ethics*" or "*professionalism component*" means a clearly identified segment of a course or program which meets the requirements of § 3 D of this regulation and which segment is devoted to one or more topics embraced in recognized formulations of rules of professional conduct or codes of professional responsibility applicable to attorneys. Such a segment must be appropriately described or entitled in course materials and must have a defined duration in the course or program schedule.

"*Reporting period*" means a period of one year beginning on July 1 of one year and ending on June 30 of the next year.

"*Rule*" means the provisions of the Mandatory Continuing Legal Education Rule established by Paragraph 17 of Section IV, Part Six, Rules of Virginia Supreme Court.

"*Specially approved course or program*" means a course which does not meet the standards of § 3 B and C of this regulation but which, because of its significant value to the practice of a member who has sought approval, has been approved by the board for such member. As to such member, the term "*approved course*" includes a specially approved course or program.

§ 2. Requirements and computations.

A. Each active member, other than a newly-admitted member or a member with a limited intellectual property admission as defined in § 1 of this regulation, shall complete, during each reporting period in which he is an active member for any part thereof, a minimum of 12 credit hours of approved continuing legal education courses, of which at least two hours shall be in the area of legal ethics or professionalism, by obtaining credit in the manner hereinafter provided, unless expressly exempted therefrom pursuant to the provisions of § 10 of this regulation.

B. Credit will be given to a member who personally attends an approved course and to a member who prepares written materials for an approved course and to a member who personally participates as an instructor for such course. Credit in the area of legal ethics or professionalism will be given a member who attends a course approved for credit in such area, and to a member who personally prepares materials for a qualified ethics or professionalism component of such course, and to a member who personally participates as an instructor for such a component.

C. Credits for attendance will be awarded on the basis of time spent in personal attendance at an approved course which meets the standards of this regulation. Credits for teaching will be awarded on the basis of time spent in personal participation as an instructor at an approved course. However, no credit will be awarded for teaching and preparation of a "specially approved course or program." Credit hours will be computed by calculating the total instructional minutes attended or taught for the course, rounded to the nearest half hour. Credit will not be given for time spent in meal or coffee breaks. Credit will not be given for keynote speeches or introductory remarks or time spent on any subject matter which is not directly related to instruction pertinent to that course.

EXAMPLES:

1. A member attends a one-day course or seminar with seven segments, each lasting 50 minutes. Two of the segments are in the area of legal ethics or professionalism under the standards set forth in § 3 of this regulation. Credit hours will be computed by calculating the total instructional minutes rounded to the nearest half hour. Since there are 350 total instructional minutes (five hours, 50 minutes) the board will round this time to the nearest half hour and the member will receive six hours credit, not seven. Of such six hours credit, one and one-half hours (100 minutes rounded to the nearest half hour) will be in the area of legal ethics or professionalism.
2. A member attends a course or program which is presented all day Friday and on Saturday morning. The member attends a three hour, 15 minute Friday morning session; a two hour, 15 minute Friday afternoon session; and a three hour, 10 minute Saturday morning session. Since the total instruction

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time is eight hours and 40 minutes for the two-day program, the board will round this time to the nearest half hour and the member will receive eight and one-half hours of credit.

3. A member attends a course or program which is advertised as having been "approved by the Virginia Mandatory Continuing Legal Education Board" for six credit hours, of which one and one-half apply in the area of legal ethics or professionalism. No further computation need be made by the member if he attends the entire course or program.

4. A member personally teaches any of the courses in the previous examples. The teaching member will receive credit hours for teaching time computed in the same fashion as the credit hours are computed for the attending member.

5. A member is a teacher at a one-day course or program with seven segments, each lasting 50 minutes. Application forms are filed certifying that the member taught one segment and also attended one segment. The member did not attend or teach the other five segments. Since the member attended or taught 100 total instructional minutes for the course, the board will round this time to the nearest half hour and the member will receive one and one-half hours of credit. The member does not receive one credit hour for 50 minutes teaching plus one credit hour for the other 50 minutes attending.

D. Credits for preparation will be awarded on the basis of time spent by the member (i) in preparing written materials which meet the standards of this regulation for use in the presentation of an approved course; and (ii) in preparing a personal presentation as an instructor for an approved course. The member of preparation minutes eligible for credit shall not exceed four times the number of instructional minutes in the presentation which is being prepared. Credit hours will be computed by calculating the total minutes spent in preparation for the course, rounded to the nearest half hour. In no event shall more than eight hours of credit be awarded for preparing a single course or program.

EXAMPLES:

1. A member prepares thorough, high-quality instructional written materials which appropriately cover the subject matter for an approved program which lasts 120 minutes. The member certifies that eight hours or more was spent preparing the written materials. The board will award eight credit hours for preparation time. This does not exceed the maximum limit of four times the presentation time of the program and is consistent with the maximum limit of eight hours of credit for preparing a single course or program.

2. Same as example 1 above except the member also

taught the entire program and certifies that an additional eight hours or more was spent preparing for the presentation as an instructor. This is a total preparation time of 16 hours. The board will still award eight credit hours for preparation time because this is the maximum limit of four times the presentation time and also because this is the maximum limit of credit for preparing a single course or program. However, the member will be awarded two credit hours for teaching time and will therefore receive a total of 10 credit hours for the activities in preparing and teaching the program.

3. A member teaches at a course approved for five credits including one ethics credit. The member certifies that he taught the morning ethics segment of 20 minutes. The member further certifies that one hour and 20 minutes was spent preparing for the presentation. Since the member taught 20 minutes the board will round this time to one half hour teaching credit. Eighty minutes (four times the presentation time) of the member's preparation time is also eligible for credit. The board will round this time to the nearest half hour and the member will receive one and one-half hours of preparation credit. The member will therefore receive a total of two hours CLE credit including two hours ethics credit for preparing the ethics segment.

E. A one-year carryover of credit hours will be permitted, so that accrued credit hours in excess of one year's requirement may be carried forward to meet the requirement of the following year. From the 1990-91 reporting period an active member may carry forward a maximum of 10 credit hours toward the 1991-92 requirement, none of which may be counted toward the two hours required in the area of legal ethics or professionalism. Thereafter, a member may carry forward a maximum of 12 credit hours, not more than two of which, if earned in the area of legal ethics or professionalism, may be counted toward credit hours required in such area.

F. A member shall not receive credit for any course attended in preparation for admission to practice law in any state, nor for attending the legal ethics course required by Paragraph 13.1 of the Rules of the Virginia Supreme Court, unless such course has been approved by the board pursuant to this regulation. A member shall not receive credit for teaching that is directed primarily to persons preparing for admission to practice law. Regular full-time, part-time and adjunct academic faculty shall not receive credit for teaching any law school courses (undergraduate or graduate) or bar review courses. A member attending law classes, for a purpose other than preparing for admission to practice law, may receive credit in accordance with the manner described in subsection C of this section.

§ 3. Standards for approval of programs.

A. A course is approved for credit if it has been specifically approved by the board or is presented by an accredited sponsor previously designated by the board under the provisions of § 5 of this regulation. A course is approved for credit in the area of legal ethics or professionalism if and to the extent specifically approved by the board. A course presented by an accredited sponsor is also approved for credit in the area of legal ethics or professionalism if and to the extent so represented by such sponsor.

B. The course must have significant intellectual or practical content. Its primary objective must be to increase the attendee's professional competence and skills as an attorney, and to improve the quality of legal services rendered to the public.

C. The course must pertain to a recognized legal subject or other subject matter which integrally relates to the practice of law, or to the professional responsibility or ethical obligations of the participants.

D. A course may be approved for credit in the area of legal ethics or professionalism only to the extent that the course constitutes or contains one or more qualified ethics or professionalism components as defined in § 1 of this regulation. A minimum scheduling of 30 minutes in the aggregate of one or more qualified ethics or professionalism components is required before an approved course can be approved for credit in the area of legal ethics or professionalism.

EXAMPLES:

1. A sponsor's application for approval of a one-day program comprising seven 50-minute segments states in relevant part "each speaker will devote ten minutes of allotted time to ethical considerations." The program does not contain a qualified ethics component and is not eligible for approval for credit in the area of legal ethics. The requirement that a qualified component be a "clearly defined segment" is not met. Such segment must be capable of identification on the schedule and have a defined beginning and end.

2. A sponsor's application for approval of a one-day program reveals in relevant part that the opening 30-minute morning segment is clearly identified as devoted to ethical considerations and that the concluding 20 minutes of the afternoon session is also clearly identified as devoted to ethical considerations. Assuming that other requirements for course approval are met, the board will approve the program for one hour credit in the area of legal ethics or professionalism. (See § 2.)

E. Courses must be conducted in a setting physically suitable to the educational course or program. A suitable writing surface should be provided.

F. Thorough, high quality instructional written materials

which appropriately cover the subject matter must be distributed to all attendees at or before the time the course is presented. A mere agenda or topical outline will not be sufficient.

G. Each course shall be presented by a faculty member or members qualified by academic or practical experience to teach the subjects covered.

H. An audio or video program presented in a group setting (at least two attorneys in attendance) lending itself to discussion and exchange of ideas among the attendees will be approved, whether or not faculty or moderators are present in person or by telephone, provided that the subjects, faculty qualifications and written materials comply with this regulation. No course will be approved that involves only self-study.

I. A program offered "in-house" will be approved by the board if it meets the standards of this regulation and if the approval procedures prescribed by this regulation are followed.

J. Participation in deliberative groups concerned with law reform, judicial administration, or regulation of the profession will not be approved for credit.

K. A course that does not meet the requirements of subsections B and C of this section may, on application of a member, be approved as a "specially approved course or program" for the applicant where the board is satisfied that the course has significant value to the applicant's practice. Thus, for example, in appropriate cases courses on engineering, accounting or medical topics may be approved for a particular member.

§ 4. Procedure for approval of programs.

A. A member or course sponsor desiring approval of a course or program shall submit to the board all information called for by the "Application for Approval of a Continuing Legal Education Course." The content of this application has been promulgated by the board and may be changed from time to time. A member seeking approval of a course as a "specially approved course or program" should include on the Application for Approval of a Continuing Legal Education Course, or as an attachment thereto, a statement of why the course has significant value to the member's practice. The board shall then determine whether or not the course or program satisfies the requirements of § 3. If the course or program is approved, the board also shall determine the number of hours credit to be awarded. The board shall notify the requesting member or sponsor of its decision within 60 days after receipt of the completed application. The board shall maintain and make available a list of all approved courses and programs for each reporting period. An approved course or program is accredited only for the reporting period for which it is approved. A "specially approved course or program" is accredited only for the member for whom approved.

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B. The sponsor of an approved course or program should include in its brochures or course descriptions the information contained in the following illustrative statement: "This course or program has been approved by the Virginia Mandatory Continuing Legal Education Board for..... hours of credit, of which..... hours will also apply in the area of legal ethics or professionalism." An announcement is permissible only after the course or program has been specifically approved pursuant to an application submitted directly by the sponsor.

C. The sponsor of an approved course or program that has not yet been approved after application should announce: "Application for approval for this course or program is pending with the Virginia Mandatory Continuing Legal Education Board."

D. At each presentation of an approved course or program or one for which approval is pending, the sponsor shall make available copies of the board's Certification of Attendance at an Approved Course or Program for completion by attendees and the board's Certification of Teaching at an Approved Course or Program for completion by instructors and shall collect those executed and turned in. The content of these certifications has been promulgated by the board and may change from time to time. Within five days following the final presentation of the course, the sponsor shall submit to the board the forms turned in by the attendees and instructors.

E. In the instance of a course or program presented while an application for approval is pending, it will be the responsibility of the sponsor to notify each member in attendance, within 30 days after the course or program is presented, whether the course or program was approved and if so, the number of credit hours for which approved. If such course or program is not approved, then such attending member will not receive any credit hours for attendance. However, a member may seek approval in the manner specified in § 4 F.

F. Any member seeking credit after attending, or any sponsor seeking approval after presenting a course or program, shall submit to the board all information called for on the Application for Approval of a Continuing Legal Education Course. The board will then determine whether the program qualifies under this regulation and, if so, how many credit hours are approved. The board will promptly notify the applicant of its decision.

§ 5. Procedure for accreditation of sponsors.

A. Any sponsor may apply for approval of individual courses by complying with the criteria of § 3 of this regulation and the procedures of § 4.

B. If the board determines that a sponsor regularly provides a significant volume of continuing legal education courses, that these courses uniformly meet the approval criteria of § 3 of this regulation, and that the sponsor will maintain and submit the records directed by this

regulation, the board may designate such a course provider as an "accredited sponsor" under the Rule. Such designation shall be effective for a period of no more than two years unless renewed.

C. A sponsor applying for status as an accredited sponsor shall submit to the board all information called for on the Application for Status as Accredited Sponsor of Continuing Legal Education.

D. An accredited sponsor shall be subject to and governed by the applicable provisions of the Rule and this regulation, including the quality standards of § 3 of this regulation and the record keeping and reporting requirements of this section. Accordingly, for example, an accredited sponsor may represent in its descriptive literature that a course or program generates credits in the area of legal ethics or professionalism only to the extent the course contains one or more qualified ethics components as provided in § 3 of this regulation.

E. The approval procedure of § 4 does not apply to accredited sponsors. An accredited sponsor must notify the board at least two weeks in advance of a program of the name, date, location and credit hours allowable for a particular course, including, where appropriate, credit hours in the area of legal ethics or professionalism. The board may request additional information regarding a course or program. The board will provide the sponsor with copies of the board's Certification of Attendance and Certification of Teaching for each course or program and the sponsor shall make available, collect and transmit such forms in accordance with the requirements of § 4 D.

F. The board may at any time reevaluate and revoke the status of an accredited sponsor. If the board finds there is a basis for revocation of the accreditation granted to an accredited sponsor, the board shall send notice by certified mail to that sponsor of the revocation within 30 days of the board's decision.

G. Law firms, professional corporations, and corporate law departments are not eligible to become accredited sponsors.

§ 6. Delegation.

To facilitate the orderly and prompt administration of the Rule and this regulation, and to expedite the processes of course approval, sponsor accreditation and the interpretation of this regulation, the board may organize itself into panels for the purpose of considering and deciding matters arising under the Rule and under this regulation.

§ 7. Board's determination and review.

A. Pursuant to directions established by the board, a panel shall, in response to written requests for approval of courses or programs or for awarding of credit for the attendance at or teaching in approved courses, waivers,

extensions of time deadlines and interpretations of this regulation, make a written response describing the action taken. A panel may seek a determination of the board before taking action. At each meeting of the board, the panel shall report on all determinations made since the last meeting of the board.

B. An aggrieved party may file with the board a written appeal of an adverse decision by a panel within 30 days after notice of the adverse decision has been mailed to him. No form of appeal is required but the aggrieved party shall state in narrative form the action complained of and all of the reasons he believes the decision of the panel is erroneous.

C. The board shall review any adverse determination of a panel which has been appealed to it pursuant to § 7 B of this regulation. The aggrieved party may present information to the board in writing or in person, and at such time and place as the board may direct. If the board finds that a panel has incorrectly interpreted the facts, the provisions of the Rule or the provisions of this regulation, it may take such action as may be appropriate. The board shall advise the aggrieved party of its findings and any action taken.

D. Pursuant to Paragraph 17 of Section IV, Part Six, Rules of the Virginia Supreme Court, the Virginia State Bar may from time to time establish fees for processing application, approving courses and accrediting sponsors, the remittance of any of these may be required before action is taken by the board.

E. All decisions of the board under this regulation shall be final and binding on all persons affected thereby and no appeal or other relief therefrom shall lie, except as specifically provided in § 9.

§ 8. Reporting of certification procedures.

A. Where a sponsor makes copies of the Certification of Attendance and the Certification of Teaching available at a course or program, each active member who wishes credit may complete the form and turn it in to the sponsor or its representative.

B. Where a member attends a course or program, and for any reason the member does not return to a sponsor the Certification of Attendance or the Certification of Teaching on the day of a course or program, the member who wishes the board to record credit may obtain a copy of the form from the board or a sponsor, complete it and forward it to the board.

C. Each active member shall submit on or before June 30 of each reporting period Certification of Attendance or Certification of Teaching at an approved course(s) for the minimum educational requirement.

D. Following the end of each reporting period, the board shall advise each active member of his status respecting

completion of the annual educational requirement. Such notice shall indicate the hours forwarded from the previous year, the hours earned during the reporting period and the total. This notice shall be entitled the "MCLE End of Year Report."

E. If the active member accepts the MCLE End of Year Report as accurately reflecting his credit hours for the period, including any teaching credits or carryover hours from the previous reporting period, and the form lists 12.0 or more CLE credits of which 2.0 or more are ethics or professionalism credits, the member does not need to file his form with the MCLE Board. If a member believes that the information reflected on the board's records is in error or incomplete, then the corrected MCLE End of Year Report must be filed and received by the MCLE office no later than July 31. If the MCLE End of Year Report lists less than 12.0 CLE credits or less than 2.0 ethics credits, then an amended MCLE End of Year Report must be filed and received by the MCLE office no later than July 31.

F. Certifications of Attendance at an Approved Course or Program filed for credit for the previous reporting period after June 30 are accepted for credit only when accompanied by the MCLE End of Year Report.

G. After July 31, a member who wishes to receive credit for credit hours earned during the previous reporting period may forward to the board a certification on the appropriate forms together with remittance of the late filing fee. Any credits approved shall be recorded for the previous reporting period and shall be eligible for the one year carryover into the current reporting period in the same fashion as other credits. A member may not apply for credits earned earlier than the next preceding reporting period.

§ 9. Noncompliance.

A. An active member who has neither complied with the educational and reporting requirements of the Rule and this regulation, nor obtained a waiver or extension for good cause shown by July 31 of each reporting period, shall be subject to suspension of such active member's license to practice law as is provided by Paragraph 13.2 of Section IV, Part Six, Rules of Virginia Supreme Court.

B. Pursuant to Paragraph 13.2 of Section IV, Part Six, Rules of Virginia Supreme Court, whenever the board determines that an active member has neither completed the mandatory continuing legal education requirements of the Rule and filed the certification required by § 8 of this regulation nor obtained a waiver or extension in accordance with §§ 12 and 13 of this regulation, the member shall be deemed to be delinquent.

§ 10. Restoration and reinstatement.

A. A delinquent member may be restored to good standing only following (i) his certifying the the

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Secretary-Treasurer of the Virginia State Bar of compliance with the requirements of the Rule in the manner provided by § 8 of this regulation and a determination by the board that he has completed the mandatory continuing legal education requirements of the Rule and paying any required fees, or (ii) the obtaining of a waiver or extension in accordance with §§ 12 and 13 of this regulation.

B. A delinquent member who is suspended pursuant to Paragraph 13.2 shall not further engage in the active practice of law until he has been reinstated. A suspended member may be reinstated only after paying any required fees and certifying compliance with the Rule as provided in Paragraph 13.2 and this regulation.

C. Where a default in compliance is cured by earning credit hours in a subsequent reporting period, credit hours applied to correct the default shall not be applied to satisfy the requirements of any other period.

D. A member suspended for an entire reporting period must show attendance at 12.0 CLE credit hours including 2.0 ethics credits earned within the previous 12 months. This member cannot rely on credits earned through carryover in the previous reporting period.

§ 11. Exemptions; newly admitted members; limited patent, trademark, copyright and unfair competition admissions.

A. The Rule exempts from the certification requirement two specific categories of active members: a newly admitted member or a person admitted to practice solely pursuant to the provisions of § 54.1-3901 (limited patent, trademark, copyright and unfair competition practice) of the Code of Virginia.

B. A newly admitted member is exempt from filing a certification for the reporting period in which he is first admitted to practice in the Commonwealth. A newly admitted member will not receive credit under this regulation for attending or teaching any course prior to his admission to the Virginia State Bar.

EXAMPLE: Attorney A is first admitted to practice law in October 1986. Attorney A is not required to comply with the minimum continuing legal education requirement of the Rule and this regulation by taking or teaching approved courses until on and after July 1, 1987. Attorney A also shall not be required to file the certification required by § 8 of this regulation until June 30, 1988. If Attorney A attends or teaches approved courses between October 1986 and July 1, 1987, he may "carry over" to the next reporting period credits in accordance with § 2 of this regulation. Attorney A, beginning on July 1, 1987, will be subject to said requirement as long as he is an active member of the Virginia State Bar.

C. An active member admitted to practice only under the provisions of § 54.1-3901 of the Code of Virginia, which

limits a member to the practice of patent, trademark, copyright and unfair competition causes, is also exempt from the requirements of the rule.

§ 12. Waivers.

A. A waiver may be sought by filing with the board a request, together with any appropriate or required supporting material or documentation (e.g. doctors' letters, medical records). The filing of any waiver request does not toll the running of any time limit set forth in this regulation or the Rule regarding suspension.

B. A waiver shall be valid for a single reporting period, unless renewed or extended by the board. A waiver will be granted only for good cause.

C. If the waiver is based on medical reason, condition, illness or hospitalization, then the application for waiver shall be a completed form entitled: "Request for Waiver Based on Hospitalization, Illness or Medical Reason." It must be completed and signed by the admitting, family or attending health care provider, and it must set forth the medical condition, hospitalization or illness which prevents the member from completing the required MCLE courses for the period for which the waiver is being requested and have attached to it any appropriate supporting material or documentation.

D. If the waiver is based on nonmedical reasons, then the grounds should be stated in a letter to the board and any appropriate supporting material or documentation should be attached.

E. All waiver requests should be promptly submitted when the grounds for the waiver request become known to the applicant or applicant's representative. Failure to file a waiver request in a timely manner may be considered by the board in determining whether to grant a waiver. A prudent lawyer will use the carryover of credits provision of the Rule to avoid most nonmedical based waiver requests.

§ 13. Extensions.

A. An extension may be sought by filing with the board a request, together with any appropriate or required supporting material or documentation (e.g. doctors' letters, medical records). The filing of an extension request does not toll the running of any time limit set forth in these regulations or the Rule regarding suspension.

B. An extension shall be valid for the specific time period granted by the board unless renewed or extended. An extension will be granted only for good cause.

C. If the extension is based on medical reason, condition, illness or hospitalization, then the application for extension shall be a completed form entitled: "Request for an Extension Based on Hospitalization, Illness or Medical Reason." It must be completed and signed by the

admitting, family or attending health care provider, and it must set forth the medical condition, hospitalization or illness which prevents the member from completing the required MCLE courses for the period for which an extension is being requested and have attached to it any appropriate supporting material or documentation.

D. If the extension is based on nonmedical reasons, then the grounds should be stated in a letter to the board and any appropriate supporting material or documentation should be attached.

E. All extension requests should be promptly submitted when the grounds for the extension request become known to the applicant or the applicant's representative. Failure to file an extension request in a timely manner may be considered by the board in determining whether to grant an extension. A prudent lawyer will use the carryover of credits provision of the Rule to avoid most nonmedical based extension requests.

§ 14. Representations by members.

A member who makes a materially false statement in any document filed with the board shall be subject to appropriate disciplinary action.

Virginia MCLE Board
Virginia State Bar
707 East Main Street, 15th Floor
Richmond, VA 23219-2803
(804) 775-0577

CERTIFICATION OF ATTENDANCE (FORM 2)

To ensure proper credit, pursuant to Paragraph 17B, C and D of Section IV, Part Six, Rules of the Supreme Court of Virginia, please list your bar ID number, social security number and print full name and address.
The information provided will be available for inspection by the public under the Freedom of Information Act.

Check if new address

Member Name: _____ VSB Member Number: _____

Official Address of Record: _____ Social Security Number: _____
(optional)

Daytime Phone: () _____
Zip Code

Course ID Number: _____

Sponsor: _____

Course/Program Title: _____

CLE (Ethics) Credits: ()

CERTIFICATION

Date(s) Attended: _____ Location(s): _____

- () I attended the full program. [members will receive the CLE (Ethics) credits shown above.]
- () I attended a total of _____ (hrs/mins) of CLE, of which () (hrs/mins) were in Ethics.

NOTE: Credit is awarded for actual time in attendance rounded to the nearest half hour.

Date Signature

A materially false statement shall be subject to appropriate disciplinary action.

A \$50 Late Filing Fee Will Be Charged For All Forms Received After July 31.

MAY BE PHOTOCOPIED

Virginia MCLE Board
Virginia State Bar
707 East Main Street, 15th Floor
Richmond, VA 23219-2803
(804) 775-0577

CERTIFICATION OF ATTENDANCE (FORM 3)

To ensure proper credit, pursuant to Paragraph 17B, C and D of Section IV, Part Six, Rules of the Supreme Court of Virginia, please list your bar ID number, social security number and print full name and address.
The information provided will be available for inspection by the public under the Freedom of Information Act.

Check if new address

Member Name: _____ VSB Member Number: _____

Official Address of Record: _____ Social Security Number: _____
(optional)

Daytime Phone: () _____
Zip Code

Course ID Number: _____

Sponsor: _____

Course/Program Title: _____

CLE (Ethics) Credits: ()

CERTIFICATION

Date(s) of Teaching: _____ Location(s): _____

- () My teaching segment was _____ (hrs/mins) of CLE, of which () (hrs/mins) were in Ethics.
- () In addition, I attended a total of _____ (hrs/mins) of CLE, of which () (hrs/mins) were in Ethics.
- () I spent _____ hours preparing for teaching my segment of the course.

NOTE: No more than four (4) hours of preparation credit may be claimed per one hour of teaching time, and no more than eight (8) hours total for any one course.

Date Signature

A materially false statement shall be subject to appropriate disciplinary action.

A \$50 Late Filing Fee Will Be Charged For All Forms Received After July 31.

MAY BE PHOTOCOPIED

Virginia MCLE Board
Virginia State Bar
707 East Main Street, Suite 1500
Richmond, VA 23219-2803
(804) 775-0577

BOARD USE ONLY			
Course ID#	_____	Letter#	_____
CLE hours	_____	Deferral Date	/ /
Ethics hours	_____	Denial Date	/ /

APPLICATION FOR CLE COURSE APPROVAL (FORM 4)

Check if new address

1. Applicant: VSB member # _____ Course Sponsor: _____
 Name: _____ Sponsor Representative* _____
 Address: _____ Address: _____

 Daytime phone: (_____) _____ Phone: (_____) _____

2. Title of Program: _____

3. Total CLE hours: _____ including (_____) Ethics hours
 To qualify for credit Ethics components must be clearly identified on the course schedule and total a minimum of 30 minutes. A sample of the Ethics material distributed must be attached.

4. Check all that apply: Live _____ Video _____ Audio _____ Satellite _____ Interactive video _____
 In-house _____ Target audience: Clients _____ Attorneys _____

5. Date(s) _____
 Location(s) _____

6. Course Registration Fee: \$ _____

7. REQUIRED ATTACHMENTS:

- a. Program Schedule or agenda
- b. Faculty name(s) and credential(s)
- c. Summary of course materials (table of contents and representative sample)

8. Description of materials: Total pages _____ Bound _____ Looseleaf _____ Outline _____
 Materials are distributed: Before program _____ At program _____ Other _____

9. Physical Facilities: Conference room _____ Classroom _____ Theater style _____ Writing surface _____
 10. Number of attorneys present or anticipated: _____ Number of nonattorneys: _____

11. SPONSOR agrees to provide Certification of Attendance forms (Form #2) and Certification of Teaching forms (Form #3) to Virginia attorneys attending or teaching the program. The sponsor agrees to collect and send those forms to the Virginia MCLE Board immediately following the program. (Not Applicable to Individual Members.)

12. BAR MEMBERS: If the program does not cover a recognized legal topic, attach a statement of how this course relates to your practice.

13. BAR MEMBERS: I certify that I attended _____ CLE hours, including (_____) Ethics hours, of the above-titled course.

*SPONSORS MUST FILE A \$25 FEE WITH THIS APPLICATION.

FEE PAID: / / Signature _____
 (must be a VSB Member or Sponsor Representative)

MAY BE PHOTOCOPIED

A materially false statement shall be subject to appropriate disciplinary action.

Final Regulations

BOARD FOR CONTRACTORS

Title of Regulation: VR 220-01-2. Board for Contractors Regulations (REPEALED).

Title of Regulation: VR 220-01-2:1. Board for Contractors Regulations.

Statutory Authority: §§ 54.1-201 and 54.1-1102 of the Code of Virginia.

Effective Date: March 31, 1995.

Summary:

The final revisions to the Board for Contractors licensing regulations add definitions for terms used but not previously defined, clarify definitions for classifications and specialties in which contracting businesses are authorized to practice, add requirements for certification of Class C contractors, clarify the status of reinstating a license/certificate, amend the standards of conduct to specify grounds for disciplinary action more clearly and to add two new standards, and adjust fees in accordance with the requirements of § 54.1-113 of the Code of Virginia. The regulations are also rewritten to simplify and clarify the language throughout.

Summary of Public Comment and Agency Response: A summary of comments made by the public and the agency's response may be obtained from the promulgating agency or viewed at the office of the Registrar of Regulations.

Agency Contact: Copies of the regulation may be obtained from Gerald W. Morgan, Assistant Director, Board for Contractors, 3600 West Broad Street, Richmond, VA 23230, telephone (804) 367-2785. There may be a charge for copies.

VR 220-01-2:1. Board for Contractors Regulations.

PART I. DEFINITIONS.

§ 1.1. General definitions.

The following words and terms, when used in these regulations, unless a different meaning is provided or is plainly required by the context, shall have the following meanings:

"Affidavit" means a written statement of facts, made voluntarily, and confirmed by the oath or affirmation of the party making it, taken before a notary or other person having the authority to administer such oath or affirmation.

"Certificate holder" means a firm holding a Class C contractor certificate issued by the Board for Contractors

to act as a contractor as defined in § 54.1-1100 of the Code of Virginia.

"Controlling financial interest" means the direct or indirect ownership or control of 50% or more of the applicable indicia of ownership of a firm.

"Firm" means any sole proprietorship, partnership, association, limited liability company, or corporation which is required by § 54.1-1100 of the Code of Virginia to obtain a license/certificate.

"Full-time employee" means an employee who spends a minimum of 30 hours a week carrying out the work of the licensed/certified contracting business.

"Licensee" means a firm holding a license issued by the Board for Contractors to act as a contractor, as defined in § 54.1-1100 of the Code of Virginia.

"Net worth" means assets minus liabilities. For purposes of these regulations, assets shall not include any property owned as tenants by the entirety.

"Reciprocity" means an arrangement by which the licensees of two states are allowed to practice within each other's boundaries by mutual agreement.

"Reinstatement" means having a license or certificate restored to effectiveness after the expiration date has passed.

"Renewal" means continuing the effectiveness of a license or certificate for another period of time.

"Responsible management" means the following individuals:

1. The sole proprietor of a sole proprietorship
2. The partners of a general partnership
3. The managing partners of a limited partnership
4. The officers of a corporation
5. The managers of a limited liability company
6. The officers or directors of an association or both

"Sole proprietor" means any individual, not a corporation, who is trading under his own name, or under an assumed or fictitious name pursuant to the provisions of §§ 59.1-69 through 59.1-76 of the Code of Virginia.

["Tenants by the entirety" means a tenancy which is created between a husband and wife and by which together they hold title to the whole right of survivorship so that, upon death of either, other takes whole to exclusion of deceased heirs.]

§ 1.2. Definitions of license/certificate classifications.

The following words and terms, when used in these regulations, unless a different meaning is provided or is plainly required by the context, shall have the following meanings:

"Building contractors" (Abbr: BLD) means those individuals whose contracts include construction on real property owned, controlled or leased by another person of commercial, industrial, institutional, governmental, residential (single-family, two-family or multifamily) and accessory use buildings or structures. This classification also provides for remodeling, repair, improvement or demolition of these buildings and structures. A holder of this license/certificate can do general contracting but his scope of work cannot include any work covered under the following trade or specialty licenses:

- alarm security
- asbestos
- billboard/sign
- blasting
- electrical
- electronic communication
- elevator/escalator
- environmental systems
- fire alarm
- fire sprinkler
- fire suppression
- gas fitting
- HVAC
- irrigation
- passive energy
- plumbing

The building classification does include the functions carried out by the following specialties:

- commercial improvement
- home improvement
- farm improvement
- landscape services

- miscellaneous
- modular/mobile building
- recreational facilities

The above specialties are not inclusive of all of the functions covered by the building classification.

"Electrical contractors" (Abbr: ELE) means those individuals whose contracts include the construction, repair, maintenance, alteration or removal of electrical systems under the National Electrical Code. This classification provides for all work covered by the National Electrical Code including electrical work covered by ALS, ESC, and FAS classifications. A firm holding an electrical license is responsible for meeting all applicable tradesman certification standards adopted by each locality.

"Highway/heavy contractors" (Abbr: H/H) means those individuals whose contracts include construction, repair, improvement or demolition of the following:

- bridges
- dams
- foundations
- drainage systems
- parking lots
- public transit systems
- rail roads
- roads
- runways
- streets
- structural signs & lights
- tanks

The functions carried out by these contractors include but are not limited to the following:

- building demolition
- clearing
- concrete work
- excavating
- grading
- nonwater well drilling

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paving

pile driving

road marking

These contractors also install, maintain or dismantle the following:

1. Power systems for the generation and primary and secondary distribution of electric current ahead of the customer's meter;
2. Pumping stations and treatment plants;
3. Telephone, telegraph or signal systems for public utilities;
4. Water, gas and sewer lines up to five feet from any building or structure.

"HVAC contractors" (Abbr: HVA) means those individuals whose work includes the installation, alteration, [~~or~~] repair [or maintenance] of heating systems, ventilating systems, cooling systems, steam and hot water heating systems, boilers, [process piping,] and mechanical refrigeration systems [, including tanks incidental to the system] . This classification does not provide for [~~process piping,~~] fire suppression installations, sprinkler system installations [; electrical work covered under the NEC in conjunction with HVAC systems; or] gas piping [~~or storage tank installations~~] . A firm holding a HVAC license is responsible for meeting all applicable tradesman certification standards adopted by each locality.

"Plumbing contractors" (Abbr: PLB) means those individuals whose contracts include the installation, maintenance, extension, or alteration or removal of all piping, fixtures, appliances, and appurtenances in connection with any of the following:

[backflow prevention devices]

boilers

[domestic sprinklers]

hot water baseboard heating systems

hot water heaters

hydronic heating systems

[process piping]

public/private water supply systems within or adjacent to any building, structure or conveyance

sanitary or storm drainage facilities

[steam heating systems]

[storage tanks incidental to the installation of related systems]

venting systems

These contractors also install, maintain, extend or alter the following:

liquid waste systems

sewerage systems

storm water systems

water supply systems

This classification does not provide for [~~process piping,~~] gas piping or the function of fire sprinkler contracting [as noted above] . A firm holding a plumbing license is responsible for meeting all applicable tradesman certification standards adopted by each locality.

"Specialty contractors" means those individuals whose contracts are for specialty services which do not generally fall within the scope of any other classification within these regulations.

§ 1.3. Definitions of specialty services.

The following words and terms, when used in these regulations, unless a different meaning is provided or is plainly required by the context, shall have the following meanings:

"Alarm/security systems contracting" (Abbr: ALS) means that service which provides for the installation, repair, improvement or removal of alarm systems or security systems annexed to real property. This classification covers only burglar and security alarm installations. A firm holding an ALS license/certificate is responsible for meeting all applicable tradesman certification standards adopted by each locality. The electrical classification also provides for this function.

"Asbestos contracting" (Abbr: ASB) means that service which provides for the installation, removal or encapsulation of asbestos containing materials annexed to real property. No other classification or specialty service provides for this function.

"Billboard/sign contracting" (Abbr: BSC) means that service which provides for the installation, repair, improvement or dismantling of any billboard or structural sign permanently annexed to real property. H/H is the only other classification that can perform this work [except that a contractor in this specialty may connect or disconnect signs to existing electrical circuits. A building contractor may install signs incidental to work covered under their classification] . No trade related plumbing, electrical or HVAC work is included in this classification.

"Blast/explosive contracting" (Abbr: BEC) means that service which provides for the use of explosive charges for the repair, improvement, alteration or demolition of any real property or any structure annexed to real property.

"Commercial improvement contracting" (Abbr: CIC) means that service which provides for additions, repairs or improvements to nonresidential property and multifamily property as defined in Virginia Uniform Statewide Building Code. The BLD classification also covers this work. The CIC classification does not provide for the construction of new buildings, accessory buildings, electrical plumbing, HVAC or gas work.

"Electronic/communication service contracting" (Abbr: ESC) means that service which provides for the installation, repair, improvement or removal of electronic or communications systems annexed to real property including telephone wiring, computer cabling, sound systems, data links, data and network installation, television and cable TV wiring, antenna wiring and fiber optics installation, all of which operate at 50 volts or less. A firm holding an ESC license/certificate is responsible for meeting all applicable tradesman certification standards adopted by each locality. The electrical classification also provides for this function.

"Elevator/escalator contracting" (Abbr: EEC) means that service which provides for the installation, repair, improvement or removal of elevators or escalators permanently annexed to real property. A firm holding an EEC license/certificate is responsible for meeting all applicable tradesman certification standards adopted by each locality. No other classification or specialty service provides for this function.

"Environmental monitoring well contracting" (Abbr: EMW) means that service which provides for the construction of a well to monitor hazardous substances in [the] ground [water] .

"Equipment/machinery contracting" (Abbr: EMC) means that service which provides for the installation or removal of equipment or machinery such as conveyors or heavy machinery. It does not provide for any electrical, plumbing, process piping or HVAC functions.

"Farm improvement contracting" (Abbr: FIC) means that service which provides for the installation, repair or improvement of a nonresidential farm building or structure, or nonresidential farm accessory-use structure, or additions thereto. The BLD classification also provides for this function. The FIC specialty does not provide for any electrical, plumbing, HVAC or gas fitting functions.

"Fire alarm systems contracting" (Abbr: FAS) means that service which provides for the installation, repair or improvement of fire alarm systems which operate at 50 volts or less. The electrical classification also provides for this function. A firm with an FAS license/certificate is

responsible for meeting all applicable tradesman certification standards adopted by each locality.

"Fire sprinkler contracting" (Abbr: SPR) means that service which provides for the installation, repair, improvement or removal of sprinkler systems using water as a means of fire suppression when annexed to real property. [No other classification or specialty provides for this service.] This specialty does not provide for the installation, repair or maintenance of other types of fire suppression systems.

"Fire suppression contracting" (Abbr: FSP) means that service which provides for the installation, repair, improvement or removal of fire suppression systems including but not limited to halon and other gas systems; dry chemical systems; and carbon dioxide systems annexed to real property. No other classification provides for this function. The FSP specialty does not provide for the installation, repair or maintenance of water sprinkler systems.

"Gas fitting contracting" (Abbr: GFC) means that service which provides for the installation, repair, improvement or removal of gas piping and appliances annexed to real property.

"Home improvement contracting" (Abbr: HIC) means that service which provides for repairs or improvements to one- and two-family residential buildings or structures annexed to real property. The BLD classification also provides for this function. The HIC specialty does not provide for electrical, plumbing, HVAC or gas fitting functions. It does not include high rise buildings, buildings with more than two dwelling units or new construction functions.

"Landscape irrigation contracting" (Abbr: ISC) means that service which provides for the installation, repair, improvement or removal of irrigation sprinkler systems or outdoor sprinkler systems. The PLB and H/H classifications also provide for this function. However, only the PLB classification provides for the installation of backflow devices.

"Landscape service contracting" (Abbr: LSC) means that service which provides for the alteration or improvement of a land area not related to any other classification or service activity by means of excavation, clearing, grading, construction of retaining walls for landscaping purposes or placement of landscaping timbers.

["Lead abatement contracting" (Abbr: LAC) means that service which provides for the removal or encapsulation of lead-containing materials annexed to real property. No other classification or specialty service provides for this function. A plumber may provide this service incidental to work embraced in that classification.]

"Marine facility contracting" (Abbr: MCC) means that service which provides for the construction, repair,

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improvement or removal of any structure the purpose of which is to provide access to, impede or alter a body of surface water. The H/H classification also provides for this function. The MCC specialty does not provide for electrical, HVAC or plumbing functions.

"Miscellaneous contracting" (Abbr: MSC) means that service which may fall under another classification or specialty service but is more limited than the functions provided by the other classification.

"Modular/mobile [/manufactured] building contracting" (Abbr: MBC) means that service which provides for the installation or removal of a modular [or ,] mobile [or manufactured] building. This classification does not cover foundation work; it does allow a licensee/certificate holder to do internal tie ins of plumbing and electrical or HVAC equipment. It does not allow for installing additional plumbing, electrical or HVAC work such as installing the service meter, or installing the outside compressor for the HVAC system. The H/H and BLD classifications also provide for this function.

"Passive energy systems contracting" (Abbr: PES) means that service which provides for the installation, repair or improvement, from the customer's meter, of passive energy generation systems or passive supplemental energy systems annexed to real property. No other classification or specialty service provides this function. This specialty does not provide for electrical, plumbing, gas fitting or HVAC functions.

"Radon mitigation contracting" (Abbr: RMC) means that service which provides for additions, repairs or improvements to buildings or structures, for the purpose of mitigating or preventing the effects of radon gas. This function can only be performed by a firm holding the BLD classification or CIC (for other than one- and two-family dwellings), FIC (for nonresidential farm buildings) or HIC (for one- and two-family dwellings) specialty services. No electrical, plumbing, gas fitting or HVAC functions are provided by this specialty.

"Recreational facility contracting" (Abbr: RFC) means that service which provides for the construction, repair or improvement of any recreational facility, excluding paving and the construction of buildings, plumbing, electrical and HVAC functions. The building classification also provides for this function.

"Refrigeration contracting" (Abbr: REF) means that service which provides for installation, repair or removal of any refrigeration equipment (excluding HVAC equipment). No electrical, plumbing, gas fitting or HVAC functions are provided by this specialty. This specialty is intended for those contractors who repair or install coolers, refrigerated casework, ice-making machines, cold room equipment and similar hermetic refrigeration equipment. This function is also provided by the HVAC classification.

["Septic systems contracting" (Abbr: SSC) means that service which provides for the installation, repair, improvement or removal of septic tanks and systems annexed to real property.

"Sewage disposal systems contracting" (Abbr: SDS) means that service which provides for the installation, repair, improvement or removal of septic tanks, septic systems, and other on-site sewage disposal systems annexed to real property.]

"Vessel construction contracting" (Abbr: VCC) means that service which provides for the construction, repair, improvement or removal of nonresidential vessels, tanks or piping that hold or convey fluids other than sanitary, storm, waste or potable water supplies. The H/H classification also provides for this service.

["Water well contracting" (Abbr: WWC) means that service which provides for the construction of a water well to reach groundwater as defined in § 62.1-255 of the Code of Virginia. No other classification or specialty service provides for this function.

"Waterwell/pump contracting" (Abbr: WWP) means that service which provides for the installation of a water well system, which includes construction of a water well to reach ground water, as defined in § 62.1-255 of the Code of Virginia, and the installation of the well pump and tank, including pipe and wire, up to the point of connection to the plumbing and electrical systems. No other classification or specialty service provides for construction of water wells. This regulation shall not exclude PLB, ELE or HVAC from installation of pumps and tanks.]

Note: Specialty contractors engaging in construction which involves the following activities or items or similar activities or items may fall under the specialty service of commercial improvement, home improvement or farm improvement, or they may fall under the building classification.

- Appliances
- Awnings
- Blinds
- Bricks
- Bulkheads
- Cabinetry
- Carpentry
- Carpeting
- Casework

<i>Caulking</i>	<i>Marble</i>
<i>Ceilings</i>	<i>Masonry</i>
<i>Chimneys</i>	<i>Metal Work</i>
<i>Chutes</i>	<i>Millwrighting</i>
<i>Concrete</i>	<i>Mirrors</i>
<i>Conduit Rodding</i>	<i>Miscellaneous Iron</i>
<i>Curtains</i>	<i>Ornamental Iron</i>
<i>Curtain Walls</i>	<i>Painting</i>
<i>Decks</i>	<i>Partitions</i>
<i>Doors</i>	<i>Plastic Wall Coverings</i>
<i>Drapes</i>	<i>Protective Coatings</i>
<i>Drywall</i>	<i>Railings</i>
<i>Epoxy</i>	<i>Rigging</i>
<i>Exterior Decoration</i>	<i>Roofing</i>
<i>Facings</i>	<i>Rubber Linings</i>
<i>Fences</i>	<i>Sandblasting</i>
<i>Fiberglass</i>	<i>Scaffolding</i>
<i>Fireplaces</i>	<i>Screens</i>
<i>Fireproofing</i>	<i>Sheet Metal</i>
<i>Fixtures</i>	<i>Shingles</i>
<i>Floor Coverings</i>	<i>Shutters</i>
<i>Flooring</i>	<i>Siding</i>
<i>Floors</i>	<i>Skylights</i>
<i>Glass</i>	<i>Special Coatings</i>
<i>Glazing</i>	<i>Stone</i>
<i>Grouting</i>	<i>Storage Bins & Lockers</i>
<i>Grubbing</i>	<i>Stucco</i>
<i>Guttering</i>	<i>Temperature Controls</i>
<i>Insulation</i>	<i>Terrazzo</i>
<i>Interior Decorating</i>	<i>Tile</i>
<i>Lubrication</i>	<i>Vaults</i>

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Vinyl Flooring

Wall Coverings

Wall Panels

Wall Tile

Waterproofing

Weatherstripping

Welding

Windows

Wood Floors

PART II. ENTRY.

§ 2.1. Requirements for a Class C certificate.

A. Every firm applying for a Class C certificate must meet the requirements of this section.

B. For every classification or specialty in which the firm seeks to be certified, the firm shall name a qualified individual who meets the following requirements:

1. Is at least 18 years old;
2. Has a minimum of two years experience in the classification or specialty for which he is the qualifier;
3. Is a full-time employee of the firm as defined in these regulations or is a member of the responsible management of the firm; and
4. Where appropriate, has passed the trade-related examination approved by the board and required for the specialties listed below:

- a. Blast/explosive contracting,
- b. Radon mitigation, and
- c. Water well drilling.

C. Each firm shall provide information for the past five years prior to application on any outstanding, past-due debts and judgments, outstanding tax obligations or defaults on bonds. The firm, its qualified individual or individuals and all members of the responsible management of the firm shall submit information on any past-due debts and judgments or defaults on bonds directly related to the practice of contracting as defined in § 54.1-1100 of the Code of Virginia.

D. The firm, the qualified individual and all members of the responsible management of the firm shall disclose at

the time of application any current or previous contractor licenses held in Virginia or in other jurisdictions and any disciplinary actions taken on these licenses, including but not limited to any monetary penalties, fines, suspension, revocation or surrender of a license in connection with a disciplinary action in Virginia or any other jurisdiction within the five years immediately prior to applying for a Virginia contractor certificate.

E. In accordance with § 54.1-204 of the Code of Virginia, each applicant shall disclose the following information about the firm, any member of the responsible management and the qualified individual or individuals for the firm:

1. A conviction in any jurisdiction of any felony,
2. A conviction in any jurisdiction of any misdemeanor within the three years immediately prior to application.

Any plea of *nolo contendere* shall be considered a conviction for purposes of this subsection. The record of a conviction received from a court shall be accepted as *prima facie* evidence of a conviction or finding of guilt. The board, in its discretion, may deny certification to any applicant in accordance with § 54.1-204 of the Code of Virginia.

§ 2.2. Requirements for a Class B license.

A. Every firm applying for a Class B license must meet the requirements of this section.

B. Every firm shall name a designated employee who meets the following requirements:

1. Is at least 18 years old;
2. Is a full-time employee of the firm as defined in these regulations, or is a member of responsible management as defined in these regulations;
3. Has passed the General Section and the Virginia Section of the licensing examination as required by § 54.1-1108 of the Code of Virginia. An applicant who has passed in another jurisdiction a licensing exam found by the board to be substantially equivalent to the General Section of the Virginia exam, shall only be required to pass the Virginia Section of the board's licensing examination; [and]
4. Has followed all rules established by the board or by the testing service acting on behalf of the board with regard to conduct at the examination. Such rules shall include any written instructions communicated prior to the examination date and any oral or written instructions given at the site on the date of the exam.

C. For every classification or specialty in which the firm seeks to be licensed, the firm shall name a qualified

individual who meets the following requirements:

1. Is at least 18 years old;
2. Has a minimum of three years experience in the classification or specialty for which he is the qualifier;
3. Is a full-time employee of the firm as defined in these regulations or is a member of the responsible management of the firm; [and]
4. Where appropriate, has passed the trade-related examination approved by the board and required for the classifications and specialties listed below:

electrical

gas fitting

HVAC

plumbing

blast/explosive contracting

radon mitigation

water well drilling

D. Each firm shall submit information on its financial position. Excluding any property owned as tenants by the entirety, the firm shall state a net worth or equity of \$15,000 or more.

E. Each firm shall provide information for the five years prior to application on any outstanding, past-due debts and judgments, outstanding tax obligations or defaults on bonds. The firm, its designated employee, qualified individual or individuals and all members of the responsible management of the firm shall submit information on any past-due debts and judgments or defaults on bonds directly related to the practice of contracting as defined in § 54.1-1100 of the Code of Virginia.

F. The firm, the designated employee, the qualified individual and all members of the responsible management of the firm shall disclose at the time of application any current or previous contractor licenses held in Virginia or in other jurisdictions and any disciplinary actions taken on these licenses, including but not limited to any monetary penalties, fines, suspension, revocation or surrender of a license in connection with a disciplinary action. The board, in its discretion, may deny licensure to any applicant when any of the parties listed above have had a license suspended, revoked, or surrendered in connection with a disciplinary action in Virginia or any other jurisdiction within the five years immediately prior to applying for a Virginia contractor license.

G. In accordance with § 54.1-204 of the Code of Virginia,

each applicant shall disclose the following information about the firm, designated employee, any member of the responsible management and the qualified individual or individuals for the firm:

1. A conviction in any jurisdiction of any felony,
2. A conviction in any jurisdiction of any misdemeanor within the three years immediately prior to application.

Any plea of nolo contendere shall be considered a conviction for purposes of this subsection. The record of a conviction received from a court shall be accepted as prima facie evidence of a conviction or finding of guilt. The board, in its discretion, may deny licensure to any applicant in accordance with § 54.1-204 of the Code of Virginia.

§ 2.3. Additional requirements for a Class A license.

A. Every firm applying for a Class A license shall meet all of the requirements outlined in subsections E, F, and G of § 2.2 as well as the additional qualifications of this section.

B. The designated employee shall meet the [following] requirements [of § 2.1 B and shall also pass the Advanced Section of the licensing examination as required by § 54.1-1106 of the Code of Virginia or have been exempted from the exam requirement in accordance with § 54.1-1108.1 of the Code of Virginia. An applicant who has passed in another jurisdiction a licensing examination found by the board to be substantially equivalent to the General and Advanced Sections of the Virginia exam, shall only be required to pass the Virginia Section of the board's licensing examination. :

1. Is a least 18 years old;
2. Is a full-time employee of the firm as defined in these regulations or is a member of the responsible management of the firm; and
3. Has passed the Advanced Section of the licensing examination as required by § 54.1-1106 of the Code of Virginia or has been exempted from the exam requirement in accordance with § 54.1-1108.1 of the Code of Virginia. An applicant who has passed in another jurisdiction a licensing examination found by the board to be substantially equivalent to the General and Advanced Sections of the Virginia exam, shall only be required to pass the Virginia section of the board's licensing examination.]

C. The qualified individual for every classification or specialty in which the firm seeks to be licensed shall meet the [following] requirements [of § 2.1 C and shall have a minimum of five years experience in the classification or specialty for which he is the qualifier. :

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1. Is at least 18 years old;
2. Has a minimum of five years of experience in the classification or specialty for which he is the qualifier;
3. Is a full-time employee of the firm as defined in these regulations or is a member of the firm as defined in these regulations or is a member of the responsible management of the firm; and
4. Where appropriate, has passed the trade-related examination approved by the board and required for the classifications and specialties listed below:

blast/explosive contracting

electrical

gas fitting

HVAC

plumbing

radon mitigation

water well drilling]

D. Each firm shall submit information on its financial position. Excluding any property owned as tenants by the entirety, the firm shall state a net worth or equity of \$45,000.

§ 2.4. Qualifications for licensure by reciprocity.

Firms originally licensed in a state with which the board has a reciprocal agreement may obtain a Virginia contractor's license in accordance with the terms of that agreement.

§ 2.5. Examinations.

All examinations required for licensure shall be approved by the board and provided by the board, a testing service acting on behalf of the board or another governmental agency or organization.

§ 2.6. Past due Recovery Fund assessments.

No license shall be issued to an applicant whose previous license or registration was suspended for nonpayment of a Virginia Contractor Transaction Recovery Fund assessment until all past-due assessments have been paid.

§ 2.7. Fees.

Each check or money order shall be made payable to the Treasurer of Virginia. All fees required by the board are nonrefundable. In the event that a check, money draft or similar instrument for payment of a fee required by

statute or regulation is not honored by the bank or financial institution named, the applicant or regulant shall be required to remit fees sufficient to cover the original fee, plus the additional processing charge specified below [: :]

Fee Type	When Due	Amount Due
Class C Initial Certificate	with certificate application	\$ 90
Class B Initial License	with license application	\$110
Class A Initial License	with license application	\$130
Declaration of Designated Employee	with license application	\$ 45
Class B Exam Fee	with exam application (\$20 per section)	\$ 40
Class A Exam Fee	with exam application (\$20 per section)	\$ 60
Water Well Exam	with exam application	\$ 40
Dishonored Check Fee	with replacement check	\$ 25

Note: A \$25 Recovery Fund assessment is also required with each initial license application. If the applicant does not meet all requirements and does not become licensed, this assessment will be refunded. The fees for examinations approved by the board but administered by another governmental agency or organization shall be determined by that agency or organization.

PART III. RENEWAL.

§ 3.1. Renewal required.

Licenses/certificates issued under these regulations shall expire two years from the last day of the month in which they were issued, as indicated on the license/certificate.

§ 3.2. Procedures for renewal.

The Department of Professional and Occupational Regulation will mail a renewal application to the licensee/certificate holder at the last known address of record. Failure to receive this notice shall not relieve the licensee/certificate holder of the obligation to renew. If the licensee/certificate holder does not receive the renewal application, a copy of the license/certificate may be substituted with the required fee.

§ 3.3. Qualifications for renewal.

Applicants for renewal of a Class C certificate shall continue to meet all of the qualifications for certification set forth in § 2.1. Applicants for renewal of a Class B license shall continue to meet all of the qualifications for licensure set forth in § 2.2. Applicants for renewal of a Class A license shall continue to meet all of the qualifications for licensure set forth in § 2.3.

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§ 3.4. Renewal fees.

Each check or money order should be made payable to the Treasurer of Virginia. All fees required by the board are nonrefundable.

In the event that a check, money draft or similar instrument for payment of a fee required by statute or regulation is not honored by the bank or financial institution named, the applicant or regulant shall be required to remit fees sufficient to cover the original fee, plus the additional processing charge specified below [: :]

Fee Type	When Due	Amount Due
Class C Renewal	with renewal application	\$ 80
Class B Renewal	with renewal application	\$100
Class A Renewal	with renewal application	\$120
Dishonored Check Fee	with replacement check	\$ 25

The date on which the renewal fee is received by the department or its agent shall determine whether the licensee/certificate holder is eligible for renewal or must apply for reinstatement. If the renewal application and fee are not received within 30 days of the expiration date of the license, the licensee/certificate holder will be required to reinstate the license/certificate.

§ 3.5. Board discretion to deny renewal.

A. The board may deny renewal of a license/certificate for the same reasons as it may refuse initial licensure/certification or discipline a licensee/certificate holder. The licensee/certificate holder has a right to appeal any such action by the board under the Administrative Process Act (§ 9-6.14:1 et seq. of the Code of Virginia).

B. Failure to timely pay any monetary penalty, reimbursement of cost, or other fee assessed by consent order or final order shall result in delaying or withholding services provided by the department such as, but not limited to, renewal, reinstatement, transfer of a license/certificate, processing a new application, or exam administration.

PART IV. REINSTATEMENT.

§ 4.1. Reinstatement required.

Should the Department of Professional and Occupational Regulation fail to receive a licensee's/certificate holder's renewal application or fees within 30 days of the license/certificate expiration date, the licensee/certificate holder shall be required to reinstate the license/certificate. Applicants for reinstatement shall meet the requirements of § 3.3.

§ 4.2. Reinstatement fees.

Each check or money order should be made payable to the Treasurer of Virginia. All fees required by the board are nonrefundable. In the event that a check, money draft or similar instrument for payment of a fee required by statute or regulation is not honored by the bank or financial institution named, the applicant or regulant shall be required to remit fees sufficient to cover the original fee, plus the additional processing charge specified below [: :]

Fee type	When Due	Amount Due
Class C Reinstatement	with reinstatement application	\$ 90*
Class B Reinstatement	with reinstatement application	\$110*
Class A Reinstatement	with reinstatement application	\$130*
Dishonored Check Fee	with replacement check	\$ 25

* in addition to renewal fee listed in § 3.4 of these regulations.

The date on which the reinstatement fee is received by the department or its agent shall determine whether the licensee is eligible for reinstatement or must apply for a new license/certificate and meet the entry requirements in place at the time of that application. In order to ensure that licensees/certificate holders are qualified to practice as contractors, no reinstatement will be permitted once six months from the expiration date of the license/certificate has passed.

§ 4.3. Status of licensee/certificate holder during the period prior to reinstatement.

A. When a license/certificate is reinstated, the licensee/certificate shall continue to have the same license/certificate number and shall be assigned an expiration date two years from the previous expiration date of the license/certificate.

B. A contractor who reinstates his license/certificate shall be regarded as having been continuously licensed/certified without interruption. Therefore:

1. The contractor shall remain under the disciplinary authority of the board during this entire period and may be held accountable for his activities during this period.

2. A consumer who contracts with a contractor during the period between the expiration of the license/certificate and the reinstatement of the license/certificate shall not be prohibited from making a claim on the Virginia Contractor Transaction Recovery Fund.

A contractor who fails to reinstate his license shall be regarded as unlicensed/uncertified from the expiration date of the license/certificate forward.

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Nothing in these regulations shall divest the board of its authority to discipline a contractor for a violation of the law or regulations during the period of time for which the contractor was licensed/certified.

§ 4.4. Board discretion to deny reinstatement.

A. The board may deny reinstatement of a license/certificate for the same reasons as it may refuse initial licensure/certification or discipline a licensee/certificate holder. The licensee/certificate holder has a right to appeal any such action by the board under the Administrative Process Act (§ 9-6.14:1 et seq. of the Code of Virginia).

B. Failure to timely pay any monetary penalty, reimbursement or cost or other fee assessed by consent order or final order shall result in delaying or withholding services provided by the department such as, but not limited to, renewal, reinstatement, transfer of a license, certificate, processing of a new application, or exam administration.

PART V. STANDARDS OF PRACTICE AND CONDUCT.

Article 1. Revocation, Suspension and Fines.

§ 5.1. Revocation or suspension; fines.

The board may revoke or suspend a license/certificate or fine a licensee/certificate holder when a licensee/certificate holder has been found to have violated or cooperated with others in violating any provision of Chapter 11 (§ 54.1-1100 et seq.) of Title 54.1 of the Code of Virginia, or any regulation of the board.

Article 2. Maintenance of License/Certificate.

§ 5.2. Transfer of license/certificate prohibited.

Licenses/certificates are issued to firms as defined in these regulations. Whenever the legal business entity holding the license is dissolved or altered to form a new business entity, a new license is required. Such changes include but are not limited to:

1. Death of a sole proprietor,
2. Death or withdrawal of a general partner in a general partnership or the managing partner in a limited partnership,
3. Dissolution of a corporation, a limited liability company or an association.

§ 5.3. Change of responsible management [, designated employee, or qualified individual] .

[A.] Any change in the officers of a corporation, managers of a limited liability company, or officers or directors of an association shall be reported to the board in writing within 90 days of the change.

[§ 5.4. Change of designated employee.

B.] Any change of designated employee shall be reported on a form provided by the board within 45 days of the change. The new designated employee for a Class B licensee shall meet the requirements of § 2.2 B. The new designated employee for a Class A licensee shall meet the requirements of § 2.3 B.

[§ 5.5. Change of qualified individual.

C.] Any change of qualified individual shall be reported on a form provided by the board within 45 days of the change. The new qualified individual for a Class C certificate holder shall meet the requirements of § 2.1 B. The new qualified individual for a Class B licensee shall meet the requirements of § 2.2 C. The new qualified individual for a Class A licensee shall meet the requirements of § 2.3 C.

§ [~~5.6.~~ 5.4.] Change of name [or address] .

[A.] A licensee/certificate holder must operate under the name in which the license/certificate is issued. Any name change shall be reported in writing to the board within 30 days of the change. The board shall not be responsible for the licensee's/certificate holder's failure to receive notices or correspondence due to the licensee's/certificate not having reported a change of name.

[§ 5.7. Change of address.

B.] Any change of address shall be reported in writing to the board within 30 days of the change. The board shall not be responsible for the licensee's/certificate holder's failure to receive notices or correspondence due to the licensee's/certificate holder's not having reported a change of address.

§ [~~5.8.~~ 5.5.] Deletion or addition of a classification or specialty.

A. A licensee/certificate holder wishing to delete a classification or specialty from its license shall notify the board in writing. If a licensee has only one classification or specialty, deletion of that classification or specialty will result in termination of the license/certificate.

B. A licensee/certificate holder wishing to add a classification or specialty to its license/certificate shall complete a form provided by the board. A Class C certificate holder seeking an additional classification or specialty shall meet the requirements of § 2.1 B for the new classification or specialty. A Class B licensee seeking an additional classification or specialty shall meet th

requirements of § 2.3 C for the new classification or specialty. A Class A licensee seeking an additional classification or specialty shall meet the requirements of § 2.3 C for the new classification or specialty.

§ [5.9. 5.6.] Fees.

Each check or money order should be made payable to the Treasurer of Virginia. All fees required by the board are nonrefundable. In the event that a check, money draft or similar instrument for payment of a fee required by statute or regulation is not honored by the bank or financial institution named, the applicant or regulant shall be required to remit fees sufficient to cover the original fee, plus the additional processing charge specified below.

Fee Type	When Due	Amount Due
Change of Designated Employee	with change form	\$45
Change of Qualified Individual	with change form	\$45
Addition of Classification or Specialty	with addition application	\$45
Certification of Licensure/Certificate	with written request	\$25
Dishonored Check Fee	with replacement check	\$25

§ [~~5.10.~~ 5.7.] Filing of charges [; prohibited acts] .

[A.] All complaints against contractors may be filed with the Department of Professional and Occupational Regulation at any time during business hours, pursuant to § 54.1-1114 of the Code of Virginia.

[§ 5.11. Prohibited acts.

B.] The following are prohibited acts:

1. Failure in any material way to comply with provisions of Chapter 1 or Chapter 11 of Title 54.1 of the Code of Virginia or the regulations of the board.
2. Furnishing substantially inaccurate or incomplete information to the board in obtaining, renewing, reinstating, or maintaining a license/certificate.
3. Where the responsible management, designated employee or qualified individual has failed to report to the board, in writing, the suspension or revocation of a contractor license by another state or his conviction in a court of competent jurisdiction of a building code violation.
4. Publishing or causing to be published any advertisement relating to contracting which contains an assertion, representation, or statement of fact that is false, deceptive, or misleading.
5. Gross negligence in the practice of contracting.

6. Misconduct in the practice of contracting.

7. A finding of improper or dishonest conduct in the practice of his profession by a court of competent jurisdiction.

8. Failure of all those who engage in residential contracting, excluding subcontractors to the contracting parties and those who engage in routine maintenance or service contracts, to make use of a legible written contract clearly specifying the terms and conditions of the work to be performed. For the purposes of these regulations, residential contracting means construction, removal, repair, or improvements to single-family or multiple-family residential buildings, including accessory-use structures. Prior to commencement of work or acceptance of payments, the contract shall be signed by both the consumer and the licensee/certificate holder or his agent. At a minimum the contract shall specify or disclose the following:

a. When work is to begin and the estimated completion date;

b. A statement of the total cost of the contract and the amounts and schedule for progress payments including a specific statement on the amount of the down payment;

c. A listing of specified materials and work to be performed, which is specifically requested by the consumer;

d. A "plain-language" exculpatory clause concerning events beyond the control of the contractor and a statement explaining that delays caused by such events do not constitute abandonment and are not included in calculating time frames for payment or performance;

e. A statement of assurance that the contractor will comply with all local requirements for building permits, inspections, and zoning;

f. Disclosure of the cancellation rights of the parties;

g. For contracts resulting from a door-to-door solicitation, a signed acknowledgment by the consumer that he has been provided with and read the Department of Professional and Occupational Regulation statement of protection available to him through the Board for Contractors;

h. Contractor's name, address, license/certificate number, expiration date, class of license/certificate, and classifications or specialty services;

i. Statement providing that any modification to the contract, which changes the cost, materials, work to

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be performed, or estimated completion date, must be in writing and signed by all parties.

9. Failure to make prompt delivery to the consumer before commencement of work of a fully executed copy of the contract as described in subdivision 8 of this section for construction or contracting work.

10. Failure of the contractor to maintain for a period of three years from the date of contract a complete and legible copy of all documents relating to that contract, including, but not limited to, the contract and any addenda or change orders.

11. Refusing or failing, upon request or demand, to produce to the board, or any of its agents, any document, book, record or copy thereof in the licensee's/certificate holder's possession concerning a transaction covered by these regulations or for which the licensee/certificate holder is required to maintain records, or failing to respond to an investigator seeking information in the investigation of a complaint filed with the board against the contractor.

12. Abandonment, or the intentional and unjustified failure to complete work contracted for, or the retention or misapplication of funds paid, for which work is either not performed or performed only in part. (Unjustified cessation of work under the contract for a period of 30 days or more shall be considered evidence of abandonment.)

13. Making any misrepresentation or making a false promise of a character likely to influence, persuade, or induce.

14. Assisting an unlicensed/uncertified contractor to violate any provision of Chapter 1 or Chapter 11 of Title 54.1 of the Code of Virginia, or these regulations; or combining or conspiring with or acting as agent, partner, or associate for an unlicensed/uncertified contractor.

15. Allowing a firm's license/certificate to be used by an unlicensed/uncertified contractor.

16. Acting as or being an ostensible licensee/certificate holder for undisclosed persons who do or will control or direct, directly or indirectly, the operations of the licensee's/certificate holder's business.

17. Where the responsible management as defined in these regulations, designated employee or qualified individual have offered, given or promised anything of value or benefit to any federal, state, or local employee for the purpose of influencing that employee to circumvent, in the performance of his duties, any federal, state, or local law, regulation, or ordinance governing the construction industry.

18. Where the firm, responsible management as

defined in these regulations, designated employee or qualified individual has been convicted or found guilty, after initial licensure/certification, regardless of adjudication, in any jurisdiction, of any felony or of any misdemeanor, there being no appeal pending therefrom or the time of appeal having elapsed. Any plea of guilty or nolo contendere shall be considered a conviction for the purposes of this subdivision. The record of a conviction received from a court shall be accepted as prima facie evidence of a conviction or finding of guilt.

19. Having failed to inform the board in writing, within 30 days, that the firm, a member of responsible management as defined in these regulations, its designated employee, or its qualified individual has pleaded guilty or nolo contendere or was convicted and found guilty of any felony or of a Class 1 misdemeanor or any misdemeanor conviction for activities carried out while engaged in the practice of contracting.

20. Having been disciplined by any county, city, town, or any state or federal governing body, which action shall be reviewed by the board before it takes any disciplinary action of its own.

21. Failure to comply with the Virginia Uniform Statewide Building Code, as amended.

22. Failure of a contractor to [~~notify Miss Utility prior to excavation, as required by the Underground Utility Damage Prevention Act~~ comply with the notification requirements of the Virginia Underground Utility Prevention Act.] Chapter 10.3 (§ 56-266.14 et seq.) of Title 56 of the Code of Virginia [(Miss Utility)] .

23. Practicing in a classification or specialty service for which the contractor is not licensed/certified.

24. After January 1, [~~1995~~ 1996] , failure to include the contractor's license/certificate number and class on all business cards and flyers and in all classified and display advertisements in newspapers and in telephone directories and in written contracts.

§ [~~5-12~~ 5.8.] Accountability of licensee/certificate holder.

Whenever a licensee/certificate offers or performs any services in Virginia related to his profession, regardless of the necessity to hold a license/certificate to perform that service, he shall be subject to the provisions of these regulations.

* * *

RBC-9.1(11-01-94)

DEPARTMENT OF PROFESSIONAL AND
OCCUPATIONAL REGULATION

STATEMENT OF CONSUMER PROTECTIONS

*THIS CONSUMER PROTECTION SHEET IS
PROVIDED THROUGH THE BOARD FOR
CONTRACTORS AND MAY BE REPRODUCED
BUT NOT ALTERED*

If you are about to engage the services of a contractor in the state of Virginia, you should be aware of the state's program for the regulation of this occupation by licensing or certifying these businesses.

Any contractor who undertakes a project the total value of which is \$70,000 or more is required to have a valid Class A license issued by the Board for Contractors. Any contractor who undertakes a project the total value of which is over \$7,500 but less than \$70,000 must have a valid Class B license. A licensed contractor has met standards established by the Board for Contractors to ensure that the licensee possesses the character, knowledge, and skills necessary to practice without harm to the public.

Any contractor who undertakes a project the total value of which is more than \$1,000 but no more than \$7,500 is required to have a valid Class C certificate. Class C certification requires that the contractor submit information to the Board for Contractors concerning the location, nature, and operation of the business, as well as evidence of experience and information on the applicant's credit history. Contractors who work in the plumbing, electrical or heating/ventilation/air-conditioning trades must have either a Class A or Class B license, according to project amount.

Before signing any contract, you should ask to see the license/certificate or the pocket card issued with the license/certificate and check to be sure that it has not expired and that the contractor is working within the limits of his licensure or certification.

The authority of the Board for Contractors to discipline these licensed or certified contractors is limited to specific violations of the law and/or regulations of the board, such as written citations from the local building inspectors for violations of the Virginia Uniform Statewide Building Code or practices which constitute abandonment, gross negligence, continued incompetence, or misconduct in the practice of the profession. In such cases disciplinary action by the board is limited to fines and/or revocation or suspension of the contractor's license or certification, and such action can only be taken after a hearing or with the consent of the licensee/certificate holder and his agreement to waive his right to a hearing.

The board does not have the authority to order a licensee/certificate holder to make restitution to you for losses you may have incurred due to the contractor's poor performance; efforts to recover such funds must be made through the civil courts. If you are planning to take such action against the contractor, you should contact the

Board for Contractors at (804) 367-8561 in order to receive information about the Virginia Contractors Transaction Recovery Fund and the procedures for applying to recover from the fund if you are unable to collect after judgment is awarded in court.

Issues involving cosmetic defects in workmanship must be resolved by negotiation between you and your contractor or civil action to enforce the terms of your contract if necessary. You should be careful in reviewing the contract before signing it in order to be sure that the terms of the agreement are clear and acceptable to you. You should know that, customarily, the initial down payment is no more than 30% of the total value of the contract and that, if you are dissatisfied with the work performed by the sub-contractors, you may hold the general contractor responsible. Finally, remember that, in accordance with the Virginia Home Solicitation Sales Act (§ 59.1-21.1 et seq. of the Code of Virginia), you have a three-day right to cancel a contract which you have negotiated in your home. (For more precise information about the application of this law, see the Code of Virginia or seek legal advice.)

Should you have reason to believe that your contractor may not have complied with the rules and regulations of the Board for Contractors, you should notify the Department of Professional and Occupational Regulation by calling (804) 367-2025 or write to the following address:

*Department of Professional and Occupational
Regulation
Enforcement Division
3600 West Broad Street
Richmond, Virginia 23230-4917*

The aforementioned information is not intended to be an exhaustive list of the remedies available to you through your local government or other agencies. If you need additional assistance, call the Virginia Department of Agriculture and Consumer Services, Citizens Assistance number at (804) 786-2042, or write to the following address:

*Department of Agriculture and Consumer Services
Washington Building - Capitol Square
1100 Bank Street, Room 101
Richmond, Virginia 23219*

VA.R. Doc. Nos. R95-260 and R95-262; Filed January 26, 1995, 12:05 p.m.

Final Regulations



COMMONWEALTH of VIRGINIA

Department of Professional and Occupational Regulation
3600 WEST BROAD STREET, RICHMOND, VIRGINIA 23230-4917

RAY ALLEN, JR.
DIRECTOR

DEPUTY DIRECTORS
JACK E. ADAMS
CHIEF DEPUTY DIRECTOR
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ADMINISTRATION AND FINANCE
JAMES L. DUFFEN
INVESTIGATION AND ADJUDICATION

CONTRACTORS LICENSE APPLICATION PACKAGE Class A and Class B

The BOARD FOR CONTRACTORS would like to welcome your firm to its licensure program. To become a licensed contractor, please review the current law and regulations governing contractors, then complete the accompanying application, including the attached reference forms.

LICENSURE: *This package is to be used in applying for Class "A" or Class "B" contractor's license. A Class "A" license is required in order to be eligible to bid on or engage in jobs when the total value referred to in a single contract or project is \$70,000 or more or when the total value of all such construction performed in a twelve month period is \$500,000 or more. A Class "B" license is required in order to be eligible to bid on or engage in jobs when the total value referred to in a single contract project is less than \$70,000 and is more than \$1000. (Note: Landscape Irrigation and Water Well contractors need to be licensed as a Class "A" or Class "B;" contractor even when a contract or project is for an amount of \$1000 or less. Also, electrical, plumbing contractors need to be licensed as a Class "A" or Class "B" contractor when a contract or project is for an amount of \$1000 or more.)*

FEES: *The fees required for a Class "A" license are \$135 and the fees required for a Class "B" are \$115. For more information on these fees, see Section 2.5 of the Regulations of the Board for Contractors and Section 54.1-119 of the Code of Virginia. Make your firm's check for fees payable to the "Treasurer of Virginia." Fees required by the Board for Contractors are valid for a period of one year from the date they are received and are non-refundable.*

DOCUMENTATION: *Follow the instructions on the accompanying application and complete it in its entirety, including the attached Bank Reference Form, 3 Credit Reference Forms and 3 Experience Reference Forms. Should the Contractors Licensing Section determine that your application is incomplete, your firm will be notified in writing of any incomplete items. Applications are valid for a period of six months from the date they are received.*

EXAMINATIONS: *There are two types of examinations required by the Board.*

The first type of examination is a licensure exam. The licensure exam is not a trade specific exam. It is an examination which only involves questions on the laws and regulations governing contractors and questions concerning general business knowledge. All contractors seeking a Class "A" or Class "B" license must fulfill this requirement.

The second type of examination is a trade-related exam. These exams are only required to obtain certain license classifications or specialty services. For information on which classifications or services a trade-related examination, see the "pink sheet" accompanying this application.

TELEPHONE (804) 367-8500
TDD (804) 367-9753

COMMONWEALTH OF VIRGINIA - DEPARTMENT OF PROFESSIONAL AND OCCUPATIONAL REGULATION
BOARD FOR CONTRACTORS

POST OFFICE BOX 11066, RICHMOND, VIRGINIA 23208-1066

CONTRACTORS LICENSE APPLICATION

USE ONLY	FINANCE:	FEE AMT.:	CLASS FEE:	LIC. NO.:	DATE:	CODE:

GUIDELINES: This application is provided to those seeking a Class "A" or Class "B" contractor license and is based on Title 54.1, Chapters 1, 2, 3 and 11, of the Code of Virginia and the Regulations of the Board for Contractors.

INSTRUCTIONS: Read the law and regulations carefully to be sure that your firm is eligible for licensure. Also, carefully read through this application, including the extensive forms, and complete it in its entirety. Submit all required information and attachments. Print or type where applicable.

- A. TYPE OF LICENSE SOUGHT:** Please check one only: Class "A" License: _____ Class "B" License: _____
B. FEES: Pay one amount only: Class "A" Application Fee are \$136, Class "B" Application Fee are \$115.

Make check payable to the "Treasurer of Virginia" and include with this application. Deposit of any fees by the applicant is not a guarantee of licensure. Licenses are not refundable. All fees required by the Board for Contractors are non-refundable. (See §§ 2.2, 2.3 A, C and D of the Board's regulations and § 54.1-1119 of the Code of Virginia.)

- C. GENERAL INFORMATION:** Enter your firm's name, address, mailing address, and telephone numbers:

1. Name in Which Firm Will Conduct Business: _____
 2. Business Address (P.O. Box Not Accepted): _____
 3. Mailing Address (include Zip Code): _____
 4. Telephone Number(s): _____ FAX: _____

D. BUSINESS INFORMATION: Please comply with the following:

1. Firm's Business Name (if different from name listed above): _____
 2. Check the following business entity type of your contracting firm (check one only):
 SOLE PROPRIETORSHIP _____ GENERAL PARTNERSHIP _____ LIMITED PARTNERSHIP _____
 CORPORATION _____ ASSOCIATION _____

3. Firm's Tax Identification Number: _____ (Sole Proprietors may use their Social Security Number. Tax Identification Numbers are available from the Internal Revenue Service.)
 4. If you checked CORPORATION in item 2, above, you must attach a copy of one of the following documents to this form. (For more information contact the Virginia State Corporation Commission at 804-371-3967):
 a. Virginia State Charter; b. Certificate of Good Standing; c. Certificate of Authority

4. If you checked Association in item 2 and your firm is a Limited Liability Company, then it must submit a Copy of its Certificate of Organization, which is also issued by the State Corporation Commission.

E. LICENSURE EXAMINATION REQUIREMENT AND DESIGNATED EMPLOYEE REQUIREMENT: Please comply with the following:

1. Your firm is required to designate a designated employee. A designated employee is the firm's sole proprietor, general partner, managing partner, association member, corporate officer or someone at least in the firm a full-time employee who has successfully completed the Board's licensure examination. Only one designated employee may be designated by your firm at a time. Please attach the following exact the date of designation. (See §§ 2.1 A, 2.2 A, 2.3 A, 2.4 A, 2.5 A, 2.6 A, 2.7 A, 2.8 A, 2.9 A, 3.0 A, 3.1 A, 3.2 A, 3.3 A, 3.4 A, 3.5 A, 3.6 A, 3.7 A, 3.8 A, 3.9 A, 4.0 A, 4.1 A, 4.2 A, 4.3 A, 4.4 A, 4.5 A, 4.6 A, 4.7 A, 4.8 A, 4.9 A, 5.0 A, 5.1 A, 5.2 A, 5.3 A, 5.4 A, 5.5 A, 5.6 A, 5.7 A, 5.8 A, 5.9 A, 6.0 A, 6.1 A, 6.2 A, 6.3 A, 6.4 A, 6.5 A, 6.6 A, 6.7 A, 6.8 A, 6.9 A, 7.0 A, 7.1 A, 7.2 A, 7.3 A, 7.4 A, 7.5 A, 7.6 A, 7.7 A, 7.8 A, 7.9 A, 8.0 A, 8.1 A, 8.2 A, 8.3 A, 8.4 A, 8.5 A, 8.6 A, 8.7 A, 8.8 A, 8.9 A, 9.0 A, 9.1 A, 9.2 A, 9.3 A, 9.4 A, 9.5 A, 9.6 A, 9.7 A, 9.8 A, 9.9 A, 10.0 A, 10.1 A, 10.2 A, 10.3 A, 10.4 A, 10.5 A, 10.6 A, 10.7 A, 10.8 A, 10.9 A, 11.0 A, 11.1 A, 11.2 A, 11.3 A, 11.4 A, 11.5 A, 11.6 A, 11.7 A, 11.8 A, 11.9 A, 12.0 A, 12.1 A, 12.2 A, 12.3 A, 12.4 A, 12.5 A, 12.6 A, 12.7 A, 12.8 A, 12.9 A, 13.0 A, 13.1 A, 13.2 A, 13.3 A, 13.4 A, 13.5 A, 13.6 A, 13.7 A, 13.8 A, 13.9 A, 14.0 A, 14.1 A, 14.2 A, 14.3 A, 14.4 A, 14.5 A, 14.6 A, 14.7 A, 14.8 A, 14.9 A, 15.0 A, 15.1 A, 15.2 A, 15.3 A, 15.4 A, 15.5 A, 15.6 A, 15.7 A, 15.8 A, 15.9 A, 16.0 A, 16.1 A, 16.2 A, 16.3 A, 16.4 A, 16.5 A, 16.6 A, 16.7 A, 16.8 A, 16.9 A, 17.0 A, 17.1 A, 17.2 A, 17.3 A, 17.4 A, 17.5 A, 17.6 A, 17.7 A, 17.8 A, 17.9 A, 18.0 A, 18.1 A, 18.2 A, 18.3 A, 18.4 A, 18.5 A, 18.6 A, 18.7 A, 18.8 A, 18.9 A, 19.0 A, 19.1 A, 19.2 A, 19.3 A, 19.4 A, 19.5 A, 19.6 A, 19.7 A, 19.8 A, 19.9 A, 20.0 A, 20.1 A, 20.2 A, 20.3 A, 20.4 A, 20.5 A, 20.6 A, 20.7 A, 20.8 A, 20.9 A, 21.0 A, 21.1 A, 21.2 A, 21.3 A, 21.4 A, 21.5 A, 21.6 A, 21.7 A, 21.8 A, 21.9 A, 22.0 A, 22.1 A, 22.2 A, 22.3 A, 22.4 A, 22.5 A, 22.6 A, 22.7 A, 22.8 A, 22.9 A, 23.0 A, 23.1 A, 23.2 A, 23.3 A, 23.4 A, 23.5 A, 23.6 A, 23.7 A, 23.8 A, 23.9 A, 24.0 A, 24.1 A, 24.2 A, 24.3 A, 24.4 A, 24.5 A, 24.6 A, 24.7 A, 24.8 A, 24.9 A, 25.0 A, 25.1 A, 25.2 A, 25.3 A, 25.4 A, 25.5 A, 25.6 A, 25.7 A, 25.8 A, 25.9 A, 26.0 A, 26.1 A, 26.2 A, 26.3 A, 26.4 A, 26.5 A, 26.6 A, 26.7 A, 26.8 A, 26.9 A, 27.0 A, 27.1 A, 27.2 A, 27.3 A, 27.4 A, 27.5 A, 27.6 A, 27.7 A, 27.8 A, 27.9 A, 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53.0 A, 53.1 A, 53.2 A, 53.3 A, 53.4 A, 53.5 A, 53.6 A, 53.7 A, 53.8 A, 53.9 A, 54.0 A, 54.1 A, 54.2 A, 54.3 A, 54.4 A, 54.5 A, 54.6 A, 54.7 A, 54.8 A, 54.9 A, 55.0 A, 55.1 A, 55.2 A, 55.3 A, 55.4 A, 55.5 A, 55.6 A, 55.7 A, 55.8 A, 55.9 A, 56.0 A, 56.1 A, 56.2 A, 56.3 A, 56.4 A, 56.5 A, 56.6 A, 56.7 A, 56.8 A, 56.9 A, 57.0 A, 57.1 A, 57.2 A, 57.3 A, 57.4 A, 57.5 A, 57.6 A, 57.7 A, 57.8 A, 57.9 A, 58.0 A, 58.1 A, 58.2 A, 58.3 A, 58.4 A, 58.5 A, 58.6 A, 58.7 A, 58.8 A, 58.9 A, 59.0 A, 59.1 A, 59.2 A, 59.3 A, 59.4 A, 59.5 A, 59.6 A, 59.7 A, 59.8 A, 59.9 A, 60.0 A, 60.1 A, 60.2 A, 60.3 A, 60.4 A, 60.5 A, 60.6 A, 60.7 A, 60.8 A, 60.9 A, 61.0 A, 61.1 A, 61.2 A, 61.3 A, 61.4 A, 61.5 A, 61.6 A, 61.7 A, 61.8 A, 61.9 A, 62.0 A, 62.1 A, 62.2 A, 62.3 A, 62.4 A, 62.5 A, 62.6 A, 62.7 A, 62.8 A, 62.9 A, 63.0 A, 63.1 A, 63.2 A, 63.3 A, 63.4 A, 63.5 A, 63.6 A, 63.7 A, 63.8 A, 63.9 A, 64.0 A, 64.1 A, 64.2 A, 64.3 A, 64.4 A, 64.5 A, 64.6 A, 64.7 A, 64.8 A, 64.9 A, 65.0 A, 65.1 A, 65.2 A, 65.3 A, 65.4 A, 65.5 A, 65.6 A, 65.7 A, 65.8 A, 65.9 A, 66.0 A, 66.1 A, 66.2 A, 66.3 A, 66.4 A, 66.5 A, 66.6 A, 66.7 A, 66.8 A, 66.9 A, 67.0 A, 67.1 A, 67.2 A, 67.3 A, 67.4 A, 67.5 A, 67.6 A, 67.7 A, 67.8 A, 67.9 A, 68.0 A, 68.1 A, 68.2 A, 68.3 A, 68.4 A, 68.5 A, 68.6 A, 68.7 A, 68.8 A, 68.9 A, 69.0 A, 69.1 A, 69.2 A, 69.3 A, 69.4 A, 69.5 A, 69.6 A, 69.7 A, 69.8 A, 69.9 A, 70.0 A, 70.1 A, 70.2 A, 70.3 A, 70.4 A, 70.5 A, 70.6 A, 70.7 A, 70.8 A, 70.9 A, 71.0 A, 71.1 A, 71.2 A, 71.3 A, 71.4 A, 71.5 A, 71.6 A, 71.7 A, 71.8 A, 71.9 A, 72.0 A, 72.1 A, 72.2 A, 72.3 A, 72.4 A, 72.5 A, 72.6 A, 72.7 A, 72.8 A, 72.9 A, 73.0 A, 73.1 A, 73.2 A, 73.3 A, 73.4 A, 73.5 A, 73.6 A, 73.7 A, 73.8 A, 73.9 A, 74.0 A, 74.1 A, 74.2 A, 74.3 A, 74.4 A, 74.5 A, 74.6 A, 74.7 A, 74.8 A, 74.9 A, 75.0 A, 75.1 A, 75.2 A, 75.3 A, 75.4 A, 75.5 A, 75.6 A, 75.7 A, 75.8 A, 75.9 A, 76.0 A, 76.1 A, 76.2 A, 76.3 A, 76.4 A, 76.5 A, 76.6 A, 76.7 A, 76.8 A, 76.9 A, 77.0 A, 77.1 A, 77.2 A, 77.3 A, 77.4 A, 77.5 A, 77.6 A, 77.7 A, 77.8 A, 77.9 A, 78.0 A, 78.1 A, 78.2 A, 78.3 A, 78.4 A, 78.5 A, 78.6 A, 78.7 A, 78.8 A, 78.9 A, 79.0 A, 79.1 A, 79.2 A, 79.3 A, 79.4 A, 79.5 A, 79.6 A, 79.7 A, 79.8 A, 79.9 A, 80.0 A, 80.1 A, 80.2 A, 80.3 A, 80.4 A, 80.5 A, 80.6 A, 80.7 A, 80.8 A, 80.9 A, 81.0 A, 81.1 A, 81.2 A, 81.3 A, 81.4 A, 81.5 A, 81.6 A, 81.7 A, 81.8 A, 81.9 A, 82.0 A, 82.1 A, 82.2 A, 82.3 A, 82.4 A, 82.5 A, 82.6 A, 82.7 A, 82.8 A, 82.9 A, 83.0 A, 83.1 A, 83.2 A, 83.3 A, 83.4 A, 83.5 A, 83.6 A, 83.7 A, 83.8 A, 83.9 A, 84.0 A, 84.1 A, 84.2 A, 84.3 A, 84.4 A, 84.5 A, 84.6 A, 84.7 A, 84.8 A, 84.9 A, 85.0 A, 85.1 A, 85.2 A, 85.3 A, 85.4 A, 85.5 A, 85.6 A, 85.7 A, 85.8 A, 85.9 A, 86.0 A, 86.1 A, 86.2 A, 86.3 A, 86.4 A, 86.5 A, 86.6 A, 86.7 A, 86.8 A, 86.9 A, 87.0 A, 87.1 A, 87.2 A, 87.3 A, 87.4 A, 87.5 A, 87.6 A, 87.7 A, 87.8 A, 87.9 A, 88.0 A, 88.1 A, 88.2 A, 88.3 A, 88.4 A, 88.5 A, 88.6 A, 88.7 A, 88.8 A, 88.9 A, 89.0 A, 89.1 A, 89.2 A, 89.3 A, 89.4 A, 89.5 A, 89.6 A, 89.7 A, 89.8 A, 89.9 A, 90.0 A, 90.1 A, 90.2 A, 90.3 A, 90.4 A, 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A, 147.1 A, 147.2 A, 147.3 A, 147.4 A, 147.5 A, 147.6 A, 147.7 A, 147.8 A, 147.9 A, 148.0 A, 148.1 A, 148.2 A, 148.3 A, 148.4 A, 148.5 A, 148.6 A, 148.7 A, 148.8 A, 148.9 A, 149.0 A, 149.1 A, 149.2 A, 149.3 A, 149.4 A, 149.5 A, 149.6 A, 149.7 A, 149.8 A, 149.9 A, 150.0 A, 150.1 A, 150.2 A, 150.3 A, 150.4 A,

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K. EXPERIENCE OF QUALIFIED INDIVIDUAL: For each qualified individual identified in Sections J and L of this application, please print in the following space a brief account of his/her experience in the classification and/or service for which they are listed. If you need more space, attach a separate sheet of paper to this application. (See §§ 2.1 E and 2.2 E of the Board's regulations.)

L. OTHER RESPONSIBLE MANAGEMENT PERSONNEL: Please print in the following space the name of your firm's sole proprietor, partner, officer, director, or other person who is responsible for the firm's operations. Indicate each person's firm title, his/her Social Security number, birth date and place of birth. (See § 4.1 of the Board's regulations.)

LAST NAME	FIRST	M.I.	TITLE	SOC. SEC. NO.	IRTH DATE	IRTH PLACE

M. PREVIOUS AFFILIATION: Have any of the individuals listed in Sections E or L of this application been or are they now the sole proprietor, partner, officer, director, or other person who is responsible for the firm's operations? If so, list in the following space all of those individuals and titles they held/held in that firm, the name of those firms, the corresponding license or registration numbers for those firms and the expiration dates of those licenses or registrations. (See § 54.1-110 of the Code of Virginia and §§ 2.1 B and 2.2 B of the Board's regulations.)

INDIVIDUAL'S NAME	FIRM NAME	TITLE	LIC./REGISTRAT. NO.	EXPIRATION DATE

N. ASSURANCE OF COMPLIANCE: Have any of the individuals or firms listed in Section K of this application failed to properly maintain a current Virginia contractor's license or a Virginia contractor's license which expired (less than 6 months ago) YES ___ NO ___ If yes, you are required to attach those licenses to this application.

O. OTHER STATES: If the firm making this application or any of the individuals listed in Sections E or L of this application have been or are now licensed/registered/certified as a contractor in another state, please list the names of those individuals and/or firms, their license/registration/certification number, state of issue and the expiration date of those licenses/registrations/certifications:

INDIVIDUAL'S NAME	FIRM NAME	STATE	REG. NO.	EXPIR. DATE

P. DISCIPLINARY ACTIONS: Has your firm or any of the individuals or firms listed in Sections E, L, M or O of this application been subject to any disciplinary actions as a contractor or responsible management person? If so, list in the following space the name of the individual or firm, the date of the disciplinary action, the name of the authority imposing the disciplinary action, and the nature of the disciplinary action. (See § 54.1-110 of the Code of Virginia and § 2.1 of the Board's regulations.)

Q. LOCAL REQUIREMENTS: Does your firm understand that a licensed class or class was contractor must comply with the local licensing requirements of all counties, cities and towns in which work is performed? YES ___ NO ___ If no, this application cannot be processed. (See § 54.1-117 of the Code of Virginia.)

R. CRIMINAL CONVICTIONS: Please comply with the following (See §§ 2.1 G and 2.2 G of the Board's regulations):

1. Has your firm or any of the individuals or firms listed in Sections E, L, M or O of this application ever been convicted of a felony or has your firm or any of the individuals listed in Sections E, L, M or O of this application ever been convicted within the last 5 years of a misdemeanor involving lying, cheating or stealing? YES ___ NO ___
2. If you answered no in Item 1, above, go to Section 3 on the next page.
3. If you answered yes in Item 1, above, please list in the following space the names of the individuals or firms convicted, the felonies for which they were convicted and/or the misdemeanors involving lying, cheating or stealing for which they were convicted within the last 5 years. If more room is needed, attach a separate sheet of paper. Once this item has been completed, go to Item 4, below:

4. For each individual and/or firm identified in Item 3, above, you are required to submit the following materials:

- a. A copy of all applicable criminal conviction records (if convicted in Virginia, criminal history records from the State Police, Criminal Records Division, P.O. Box 2747, Richmond, VA 23242. If convicted in another state, contact the state police for that jurisdiction.);
- b. A copy of all applicable court records;
- c. A statement concerning the current status of those individuals and firms identified in Item 3, above, with regard to incarceration, parole or probation, etc.; and,
- d. Any other information you wish the Board to consider with regard to the convictions in question, such as letters of reference and/or documentation of rehabilitation or corrective actions.

Note: If the individuals and/or firms identified in Item 3, above, have already submitted criminal conviction records, court records, statements and other information to the Board for Contractors with a previous application, which resulted in the issuance of a Class "A" or "B" license, you do not have any additional felony convictions or additional misdemeanor convictions involving lying, cheating or stealing within the last 5 years, then your firm does not have to submit the materials listed in Item 4, and d of Item 4. Instead, you may provide a statement, with this application, stating that the Class "A" or "B" license issued to your firm or individuals identified with the firm, convicted, listed and reviewed and information that those individuals and firms have no outstanding convictions or misdemeanor convictions, within the last 5 years, involving lying, cheating or stealing.

5. If you answered yes in Item 1 and have completed Item 3 and 4, above, go to Section 5 on the next page.

Note: This application will not be processed until all required information is received.

5. **ELIGIBILITY:** Are all individuals listed in Sections E, F, J or L of this application legally eligible for employment in the United States? YES NO If no, please provide in the following space the names of those individuals not legally eligible for employment in the U.S. and an explanation of their current employment status. If more room is needed please attach a separate sheet of paper to this application.

T. **CLASS "M" FINANCIAL POSITION:** If your firm is seeking a Class "M" license, does your firm meet or exceed a net worth of \$45,000? YES NO If you answered no, then your firm is not eligible for a Class "M" license. (See § 2.1 D of the Board's regulations.)

U. **CLASS "M" FINANCIAL HISTORY:** If you answered yes in Section T, does your firm or any of the individuals or firms listed in Sections E, L, M or O have within the past 3 years any outstanding past-due debts, judgments, outstanding state or federal tax obligations, and/or defaults on bonds? YES NO If yes, please provide in the following space an explanation of the debt, judgment, tax obligation, or default, and if more room is needed, please attach a separate sheet of paper to this application. (See § 2.1 C of the Board's regulations.)

V. **CLASS "M" RESTRICTIONS:** If you are seeking a Class "M" license, does your firm meet a net worth of \$75,000 and understand that a Class "M" license limits a contractor to contracts which are less than \$75,000 per job or project and a total volume of such contracts in any twelve-month period of less than \$500,000? YES NO If no, this application cannot be processed. (See § 34.1-1108 of the Code of Virginia.)

W. **CLASS "M" FINANCIAL HISTORY:** If you answered yes in Section V, does your firm or any of the individuals or firms listed in Sections E, L, M or O have, within the past 3 years, any outstanding past-due debts, judgments, outstanding state or federal tax obligations, and/or defaults on bonds? YES NO If yes, please provide in the following space an explanation of the debt, judgment, tax obligation, or default, and if more room is needed, please attach a separate sheet of paper to this application. (See § 2.1 C of the Board's regulations.)

X. **UNSATISFIED JUDGMENTS:** Are there any unsatisfied judgments, arising out of a contracting transaction, against those individuals listed in Sections E or L of this application or are there any unsatisfied judgments against a contracting firm which originated while any of the individuals listed in Sections E or L of this application were employed by that firm? YES NO If yes, please explain in the following space the description of the contracting firm? YES NO If yes, please explain thoroughly, in the following space, the events or matter in question, including the dollar amounts involved. If more room is needed, please attach a separate sheet of paper to this application. (See §§ 2.1 C and 2.2 C of the Board's regulations.)

Y. **POWER OF ATTORNEY (Only required of firm located outside Virginia):** If you listed a non-Virginia business address in Section C, Item 2 of this application, or if your business is a corporation that is not chartered in Virginia, does your firm understand that the power of attorney which is filed with this application, and its successors in office, to be your firm's true and lawful agent and attorney-in-fact, in your firm's stead, upon whom all legal processes against your firm may be served, and who is hereby authorized to enter an appearance in your firm's behalf in any case or proceedings, and that by submitting this application you are hereby agreeing that the power of attorney which is filed with this application is a true and correct copy of the same legal instrument and validity of it served upon your firm? YES NO If no, this application cannot be processed. (See § 34.1-1113 of the Code of Virginia.)

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Z. **SIGNATURES:** Complete the following (See §§ 34.1-1106 and 34.1-1108 of the Code of Virginia):

1. **AFFIDAVIT:** The undersigned swears under pains and penalties of perjury that the foregoing statements and answers are true, that I (we) understand the provisions of the Code of Virginia, which are applicable to my (our) business, and that I (we) understand the Board for Contractors' regulations and Licensing Law as well as this affidavit.

Note: This application will not be processed without the following applicable signatures.

a. Please provide in the following spaces the signatures and dates of signatures of all those responsible management personnel listed in Section L of this application:

SIGNATURE: _____ DATE: _____

SIGNATURE: _____ DATE: _____

SIGNATURE: _____ DATE: _____

SIGNATURE: _____ DATE: _____

b. Please provide in the following space the signature and date of signature of the designated employee listed in Section E of this application:

SIGNATURE: _____ DATE: _____

c. Please provide in the following spaces the signatures and dates of signatures of all the qualified individuals listed in Section F and J of this application:

SIGNATURE: _____ DATE: _____

SIGNATURE: _____ DATE: _____

SIGNATURE: _____ DATE: _____

SIGNATURE: _____ DATE: _____

2. **AUTORIZATION:** Complete the following:

I, in the State of _____, City/County of _____, subscribed and sworn before me, the undersigned Notary Public in and for the City/County aforesaid this _____ day of _____, 19____. My commission expires the _____ day of _____, 19____.

AFFIX OFFICIAL SEAL HERE

Signature of Notary Public

* OTHER IMPORTANT INFORMATION:

1. Section 34.1-1110, of the Code of Virginia, makes it unlawful to materially misrepresent facts in an application for a license, certification or registration. Material misrepresentation is defined as a false statement, which could result in conviction and in a sentence of up to 1 year in jail and/or up to a \$2,500 fine.

2. These materials will not be processed if more than 90 days have elapsed from the date this application was completed and notified to the date this application was received by the Department of Revenue.

3. The Board for Contractors is responsible for the approval or disapproval of license applications. License applications may be approved/disapproved by the Board. The Board is only required to meet quarterly.

4. Violations of the license law or regulations can result in the suspension or revocation of a license. 5. Originally issued Class "M" and Class "M" contractor licenses expire two years from the month in which they were issued.

6. Social Security Numbers are requested but not required on this application.

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COMMONWEALTH OF VIRGINIA - DEPARTMENT OF PROFESSIONAL AND OCCUPATIONAL REGULATION
BOARD FOR CONTRACTORS
BANK REFERENCE FORM

CUSTOMERS: The information provided on this form is of a strictly confidential nature and becomes the property of the Board for Contractors. It will be used solely in appraising the eligibility of the applicant.

INSTRUCTIONS FOR SECTION A: Applicant, please complete Section A of this form, then have a Bank, Savings & Loan or other financial institution complete Section B of this form and return to your firm directly. Once completed, attach this form to the accompanying application. Copies of this form are not accepted. Please print or type where applicable. (Letters of reference may not be substituted for this form.)

A. CONTRACTOR: Please provide the following information and authorization:

1. Name in Which Firm/Contractor Will Conduct Business: _____
2. Type of License (Check one only): Class "A" License _____ Class "B" License _____
3. Mailing Address (Include Zip Code): _____
4. Telephone Number(s): _____ Savings _____ Other _____
5. Account Numbers: _____
6. Authorization (Complete the following statement):

I, _____ (Print Name) _____ serving as the above listed firm's Sole Proprietor General Partner, Managing Partner, Association Member or Corporate Officer, hereby authorize _____ (Print Name of Bank Reference Source) _____ to furnish the following information. _____ (Signature of Sole Proprietor, Partner, Assoc. Member or Corporate Officer) _____ Date: _____

INSTRUCTIONS FOR SECTION B: Bank reference source, please complete Section B of this form to the best of your ability for the applicant firm/contractor identified above, then return this form to the applicant.

B. BANK REFERENCE: Please complete the remainder of this form. Print or type where applicable.

1. Name of Bank Providing Reference: _____
2. Address of Bank: _____
3. Name of Bank Official Issuing the Reference: _____
4. Types of Accounts That Are Held At Your Institution By The Above Listed Firm/Contractor: _____
5. Has The Firm/Contractor Listed Above Satisfactorily Maintained These Accounts (Check one)? YES _____ NO _____
6. Please Provide Any Comments Regarding The Above Listed Firm/Contractor In The Following Space: _____

7. Signature Of Bank Official: _____ Date: _____

8. Title Of Bank Official: _____

SBG 803 01 921

BANK REFERENCE

COMMONWEALTH OF VIRGINIA - DEPARTMENT OF PROFESSIONAL AND OCCUPATIONAL REGULATION
BOARD FOR CONTRACTORS
CREDIT REFERENCE FORM

CUSTOMERS: The information provided on this form is of a strictly confidential nature and becomes the property of the Board for Contractors. It will be used solely in appraising the eligibility of the applicant.

INSTRUCTIONS FOR SECTION A: Applicant, please complete Section A of this form, then have a Credit Source, such as a bank, insurance company or other financial institution, complete Section B of this form and return to your firm directly. Once completed, attach this form to the accompanying application. Copies of this form are not accepted. Please print or type where applicable. (Letters of reference may not be substituted for this form.)

A. CONTRACTOR: Please provide the following information and authorization:

1. Name in Which Firm/Contractor Will Conduct Business: _____
2. Type of License (Check one only): Class "A" License _____ Class "B" License _____
3. Mailing Address (Include Zip Code): _____
4. Telephone Number(s): _____
5. Account Numbers: _____
6. Authorization (Complete the following statement):

I, _____ (Print Name) _____ serving as the above listed firm's Sole Proprietor General Partner, Managing Partner, Association Member or Corporate Officer, hereby authorize _____ (Print Name of Credit Reference Source) _____ to furnish the following information. _____ (Signature of Sole Proprietor, Partner, Assoc. Member or Corporate Officer) _____ Date: _____

INSTRUCTIONS FOR SECTION B: Credit reference source, please complete Section B of this form to the best of your ability for the applicant firm/contractor identified above, then return this form to the applicant.

B. CREDIT REFERENCE: Please complete the remainder of this form. Print or type where applicable.

1. Name of Credit Source Providing Reference: _____
2. Address of Credit Source: _____
3. Name of Credit Source Representative Issuing the Reference: _____
4. Types of Accounts That Are Maintained At Your Organization By The Above Listed Firm/Contractor: _____
5. Has The Firm/Contractor Listed Above Satisfactorily Maintained These Accounts (Check one)? YES _____ NO _____
6. Please Provide Any Comments Regarding The Above Listed Firm/Contractor In The Following Space: _____

7. Signature of Representative: _____ Date: _____

8. Title of Representative: _____

SBG 803 01 922

CREDIT REFERENCE

COMMONWEALTH OF VIRGINIA - DEPARTMENT OF PROFESSIONAL AND OCCUPATIONAL REGULATION
BOARD FOR CONTRACTORS

EXPERIENCE REFERENCE FORM

GUIDELINES: The information provided on this form is of a strictly confidential nature and becomes the property of the Board for Contractors. It will be used solely in appraising the eligibility of the applicant.

INSTRUCTIONS FOR SECTION A: Applicant, please complete Section A of this form, then have a past client, former employer, contractor, engineer, architect, building official or other source who is familiar with the work of your firm's qualified individual(s) complete Section B of this form and return to your firm directly. Once completed, attach this form to the accompanying application. Copies of this form are not accepted. Please print or type where applicable. (Letters of reference may not be substituted for this form.)

A. CONTRACTOR: Please provide the following information and authorization:

1. Name In Which Contractor/Firm Will Conduct Business: _____
2. Type Of License (Check one only): Class "A" License: ___ Class "B" License: ___
3. Mailing Address (Include Zip Code): _____
4. Telephone Number(s): () _____ () _____
5. Classifications/Services Sought For Licensure: _____
6. Name Of Qualified Individual(s) For Each Classification/Service Listed In Item 5.

7. Authorization (Complete the following statement):

I, _____ serving as the above listed firm's Sole Proprietor, (Print Name)
General Partner, Managing Partner, Association Member or Corporate Officer, hereby authorize _____ to furnish the following information. (Print Name of Experience Reference Source)
_____ Date: _____ (Signature of Sole Proprietor, Partner, Assoc. Member or Corporate Officer)

INSTRUCTIONS FOR SECTION B: Experience reference source, please complete Section B of this form to the best of your ability for the applicant firm/contractor identified above, then return this form to the applicant.

B. EXPERIENCE REFERENCE: Please complete the remainder of this form. Print or type where applicable.

1. Name Of Person Providing Reference: _____
2. Address Of Person Providing Reference: _____
3. Telephone Number Of The Person Providing The Reference: () _____ PM ___ AM ___
4. Describe The Type Of Work Performed By The Qualified Individual(s) With Which You Are Familiar (Note: If possible, your description should correspond to the classifications/services in Section A, Item 5.):

6. Has The Work Performed By The Qualified Individual(s), As Described, Been Satisfactory? Yes ___ No ___
7. Signature Of Reference: _____ Date: _____

SBC:0(07-01-92)

EXPERIENCE REFERENCE

**COMMONWEALTH OF VIRGINIA - DEPARTMENT OF PROFESSIONAL AND OCCUPATIONAL REGULATION
BOARD FOR CONTRACTORS**

"PINK SHEET"

The Board for Contractors requires each licensed contractor to have a qualified individual for each classification of service printed on the firm's license.

A qualified individual is the firm's sole proprietor, general partner, managing partner, executive officer, or other full-time officer of the firm. The firm must demonstrate the necessary experience in the applicable classification of service pursuant to the current Regulations of the Board for Contractors, in order to qualify a contracting firm in a classification or service, the qualified individual for a class may firm must have at least 3 years experience in the applicable classification of service. The Board for Contractors requires that each contractor have at least one qualified individual for each classification of service. Know that the board requires that qualified individuals meet additional experience requirements for some classifications and services.

Therefore, to obtain or maintain certain classifications and services, the Board for Contractors requires that each firm have at least one qualified individual for each classification and additional experience requirements listed in each of the following applicable classifications and services:

ELECTRICAL CONTRACTORS CLASSIFICATION - In addition to the years experience requirement, a qualified individual, in the Electrical classification must have successfully completed an examination approved by the Board for Contractors. The Board for Contractors has approved the Master Electrician's exam administered through the Department of Housing and Community Development's Tradesman Certification Program. If your firm's qualified individual has a Master Electrician's Card issued through the Department of Housing and Community Development's Tradesman Certification Program, whether by examination, reciprocity or exemption, he/she may serve as a qualified individual in Virginia. (See the testing agent list accompanying this information sheet). The Board further recognizes qualified individuals, in the Electrical classification, who have successfully completed the electrical exam formerly administered by the Department of Professional and Occupational Regulation or the Board for Contractors. Finally, the Board also recognizes qualified individuals who have not obtained such license through any other reciprocal agreement. Finally, the Board also recognizes qualified individuals who have been "waived" or "grandfathered" into the Electrical classification, although such recognition limits a qualified individual to only representing the contracting firm for which a "waiver" was granted or a "grandfather" was applied.

Notes: A qualified individual for a firm going through the Class B Registration to License Application process may meet the current entry requirements or be "grandfathered" by having 3 Experience Reference Forms successfully completed for the Electrical Classification, based on his/her experience.

PLUMBING CONTRACTORS CLASSIFICATION - In addition to the years experience requirement, a qualified individual in the Plumbing classification must have successfully completed an examination approved by the Board for Contractors or been deemed to have fulfilled that examination requirement. Presently, the Board for Contractors has approved the Master Plumber's exam administered by the Department of Housing and Community Development's Tradesman Certification Program. If your firm's qualified individual has a Master Plumber's Card issued through the Department of Housing and Community Development's Tradesman Certification Program, whether by examination, reciprocity or exemption, he/she may serve as a qualified individual for the Plumbing classification. To obtain a Master Plumber's Card contact a local certifying agent in Virginia (See the testing agent list accompanying this information sheet). The Board further recognizes qualified individuals who have not obtained such license through any other reciprocal agreement. Finally, the Board also recognizes qualified individuals who have been "waived" or "grandfathered" into the Plumbing classification, although such recognition limits a qualified individual to only representing the contracting firm for which a "waiver" was granted or a "grandfather" was applied.

Notes: A qualified individual for a firm going through the Class B Registration to License Application process may meet the current entry requirements or be "grandfathered" by having 3 Experience Reference Forms successfully completed for the Plumbing Classification, based on his/her experience.

HVAC CONTRACTORS CLASSIFICATION - In addition to the years experience requirement, a qualified individual in the HVAC classification must have successfully completed an examination approved by the Board for Contractors or been deemed to have fulfilled that examination requirement. Presently, the Board for Contractors has approved the Master HVAC Technician's exam administered by the Department of Housing and Community Development's Tradesman Certification Program. If your firm's qualified individual has a Master HVAC Technician's Card issued through the Department of Housing and Community Development's Tradesman Certification Program, whether by examination, reciprocity or exemption, he/she may serve as a qualified individual for the HVAC classification. To obtain a Master HVAC Technician's Card contact a local certifying agent in Virginia (See the testing agent list accompanying this information sheet). The Board further recognizes qualified individuals who have not obtained such license through any other reciprocal agreement. Finally, the Board also recognizes qualified individuals who have been "waived" or "grandfathered" into the HVAC classification, although such recognition limits a qualified individual to only representing the contracting firm for which a "waiver" was granted or a "grandfather" was applied.

Notes: A qualified individual for a firm going through the Class B Registration to License Application process may meet the current entry requirements or be "grandfathered" by having 3 Experience Reference Forms successfully completed for the HVAC Classification, based on his/her experience.

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"PINK SHEET"

Board also recognizes qualified individuals who have been "waived" or "grandfathered" into the HVAC Classification, although such recognition limits a qualified individual to only representing the contracting firm for which a "waiver" was granted or a "grandfather" was applied.

Notes: A qualified individual for a firm going through the Class B Registration to License Application process may meet the current entry requirements or be "grandfathered" by having 3 Experience Reference Forms successfully completed for the HVAC Classification, based on his/her experience.

ASBESTOS CONTRACTING SERVICE - There are no additional experience requirements set forth by the Board for Contractors. However, once licensed in the Asbestos service, the Asbestos Contracting firm may not engage in any Asbestos Contracting activities unless that firm has also obtained a separate Asbestos Contractors License or RFS Contractors License issued by the Director of the Department of Professional and Occupational Regulation. To obtain a separate Asbestos Contractors License or RFS Contractors License telephone 800-567-8595 or 804-361-2176.

BLAST/EXPLOSIVE CONTRACTING SERVICE - In addition to the years experience requirement, a qualified individual in the Blast/Explosive service must have successfully qualified the firm for the "primary" classification and successfully completed an examination approved by the Board for Contractors or been deemed to have fulfilled that examination requirement. Presently, the Board for Contractors has approved the Blastmaster's exam administered through the Department of Housing and Community Development's Tradesman Certification Program. If your firm's qualified individual has a current Blastmaster Certification or Temporary Blastmaster Certification issued through the Department of Housing and Community Development's Tradesman Certification Program, whether by examination, reciprocity or exemption, he/she may serve as a qualified individual in Virginia. (See the testing agent list accompanying this information sheet). The Board further recognizes qualified individuals, in the Blast/Explosive classification, who have successfully completed the Blastmaster exam formerly administered by the Department of Professional and Occupational Regulation or the Board for Contractors. Finally, the Board also recognizes qualified individuals who have been "waived" or "grandfathered" into the Blast/Explosive service, although such recognition limits a qualified individual to only representing the contracting firm for which a "waiver" was granted or a "grandfather" was applied.

Notes: A qualified individual for a firm going through the Class B Registration to License Application process may meet the current entry requirements or be "grandfathered" by first serving as a qualified individual in the Highway/Heavy classification and then having 3 Experience Reference Forms successfully completed for the Blast/Explosive service, based on his/her experience.

GAS FITTING CONTRACTING SERVICE - In addition to the years experience requirement, a qualified individual in the Gas Fitting service must have successfully qualified the firm for the Plumbing or HVAC classification and successfully completed an examination approved by the Board for Contractors or been deemed to have fulfilled that examination requirement. Presently, the Board for Contractors has approved the Gas Fitter's exam administered through the Department of Housing and Community Development's Tradesman Certification Program, whether by examination, reciprocity or exemption, he/she may serve as a qualified individual in Virginia. (See the testing agent list accompanying this information sheet). The Board further recognizes qualified individuals, in the Gas Fitting service, who have successfully qualified the firm for a Plumbing or HVAC classification and who have successfully completed the Gas Fitter's exam formerly administered by the Department of Professional and Occupational Regulation or the Board for Contractors. Finally, the Board also recognizes qualified individuals who have been "waived" or "grandfathered" into the Gas Fitting service, although such recognition limits a qualified individual to only representing the contracting firm for which a "waiver" was granted or a "grandfather" was applied.

Notes: A qualified individual for a firm going through the Class B Registration to License Application process may meet the current entry requirements or be "grandfathered" by first serving as a qualified individual in the Plumbing or HVAC classification and then having 3 Experience Reference Forms successfully completed for the Gas Fitting service, based on his/her experience.

RANDOM RECITATION CONTRACTING SERVICE - In addition to the years experience requirement, a qualified individual in the Random Recitation service must have successfully qualified the firm for the Building Classification or Commercial, Jan or Home Improvement Service and be listed as proficient on the Building Inspection Agency's Mitigation Guidelines and Protocol, contact the Virginia Department of Health, toll free in Virginia 1-800-668-0138 or 804-786-5932.

Notes: A qualified individual for a firm going through the Class B Registration to License Application process may meet the current entry requirements or be "grandfathered" by having 3 Experience Reference Forms successfully completed for the Gas Fitting service, based on his/her experience.

WATER WELL CONTRACTING SERVICE - In addition to the years experience requirement, a qualified individual in the Water Well Association (NWA) General Exam, to schedule a registration of the NWA NWA General Exam contact the Department of Professional and Occupational Regulation, Registration Section at 301-357-5569. The Board also recognizes qualified individuals who have been "waived" or "grandfathered" into the Water Well Contracting service, although such recognition limits a qualified individual to only representing the contracting firm for which a "waiver" was granted or a "grandfather" was applied.

Notes: A qualified individual for a firm going through the Class B Registration to License Application process may meet the current entry requirements or be "grandfathered" by having 3 Experience Reference Forms successfully completed for the Water Well Contracting service, based on his/her experience.

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"PINK SHEET"

Tradesmen Certification Program
List of participating localities and testing agent (s)

LOCALITY	FIP #	TESTING AGENT	PHONE #	LOCALITY	FIP #	TESTING AGENT	PHONE #
Accomack, County	001	C. M. Powell	(804) 787-3721	King William, County	101	D. Wills	(804) 769-4934
Alexandria, City	510	P. Radauskas	(703) 838-4360	Lancaster, County	103	M. Grigsby	(804) 462-5480
		S. Dilawari	(703) 838-4360	Lexington, City	678	W. Blatter	(703) 463-7134
Altavista, Town	303	R. Jackson	(804) 369-5002	Loudoun, County	107	S. Rodgers	(703) 777-0220
Amherst, County	009	H. Campbell	(804) 946-9302	Lynchburg, City	680	K. Johnson	(804) 847-1572
Appomattox, County	011	W. M. Caldwell, Jr.	(804) 352-8133	Martinsville, City	690	J. Baker	(703) 638-3971
Arlington, County	013	E. Rodgers	(703) 358-3800			R. Evans	(703) 638-3971
Augusta, County	015	D. W. Sensabaugh	(703) 245-3717	Middlesex, County	119	R. Reed	(804) 758-4305
Bedford, City	515	J. English	(703) 586-0159	Montgomery, County	121	E. Mannon	(703) 382-5750
Bedford, County	019	K. Stevens	(703) 586-7611	Newport News, City	700	C. Dierling, Jr.	(804) 247-8862
Blacksburg, Town	311	R. Miller	(703) 961-1125			E. Britt	(804) 247-8862
Bristol, City	520	E. W. O'Dell	(703) 466-8288	Norfolk, City	710	W. Beattie	(804) 247-8860
Buchanan, County	027	A. R. Adkins	(703) 935-6539	Northampton, City	131	E. Lucas (E)	(804) 441-2725
Campbell, County	031	S. Gough	(804) 332-6161	Portsmouth, City	740	D. Elliott	(804) 678-5276
Charlottesville, City	540	G. Smiley	(804) 971-3310			D. Harris (E)	(804) 393-8531
Chesapeake, City	550	J. Stillman (E)	(804) 547-6897			T. Lewis (M)	(804) 393-8531
		C. Hall	(804) 547-6324	Prince George, County	149	W. Hewitt (P)	(804) 393-8531
		K. Whitley (P)	(804) 547-6250	Prince William, County	153	B. Poole	(804) 733-2636
		O. Phipps (M)	(804) 547-6324	Radford, City	750	B. Archer	(703) 335-6920
Chesterfield, County	041	E. Nottingham (E)	(804) 748-1408	Rappahannock, County	157	B. Long	(703) 731-3601
		N. Cross (M)	(804) 748-1057	Richmond, City	760	R. Burke	(703) 675-3598
		J. E. Burchett (P)	(804) 748-1057			P. Murphy (E)	(804) 780-6962
		W. Dupler	(804) 748-1057			W. Priddy (P, M)	(804) 780-6981
		W. Coleman	(804) 520-9298			D. Smith	(804) 780-6950
Colonial Heights, City	570	O. S. Peters	(703) 965-6370	Roanoke, City	770	B. Williams	(804) 780-6955
Covington, City	580	D. Foster	(703) 825-0469	Roanoke, County	161	R. Miller	(703) 981-2222
Culpeper, Town	047	W. Moore	(703) 825-6241	Salem, City	775	D. Ford	(703) 772-2065
Culpeper, County	350	J. Rigney	(804) 799-5263	Shenandoah, County	171	J. Nininger, Jr.	(703) 375-3036
Danville, City	590	R. Phelps, Jr.	(804) 799-5263	Southampton, County	175	W. Golladay	(703) 459-4047
		D. Jacobson	(703) 385-7830	South Hill, Town	455	T. Willett	(804) 653-2973
Fairfax, City	600	R. Hill	(703) 246-1540	Spotsylvania, County	177	D. Wilson	(804) 447-3191
Fairfax, County	059	R. Boswell	(703) 347-3646	Stafford, County	179	D. Clabo	(703) 582-7038
Fauquier, County	061	R. Greene	(804) 392-8465	Staunton, City	790	J. Allen, Sr.	(703) 659-8650
Farmville, Town	480	R. Griffith	(703) 372-1080	Suffolk, City	800	W. Botkin	(703) 885-2534
Fredericksburg, City	630	K. Barker	(703) 226-2422	Surry, County	181	D. Chavis	(804) 934-3111
Galax, City	640	J. Haughney	(804) 693-2744	Sussex, County	183	W. Mavin	(804) 294-5210
Gloucester, County	073	C. Veliky	(804) 348-4232	Tazewell, County	185	F. Owens	(804) 246-5511
Greensville, County	081	S. Shapiro	(804) 727-6150	Va. Beach, City	810	R. Bailey	(703) 988-7541
Hampton, City	650	D. Barbour (E)	(804) 537-6040	Warren, County	187	R. Lohrer	(804) 427-4211
Hanover, County	085	L. Thompson (E)	(804) 537-6040	Warrenton, Town	478	N. Derflinger	(703) 636-9973
		C. Nicholas (P, M)	(804) 537-6040	Waynesboro, City	820	R. Carroll	(703) 347-1101
		L. Lipscomb (P, M)	(804) 537-6040	Williamsburg, City	830	J. Honbarrier	(703) 942-6629
Harrisonburg, City	660	E. Baldwin	(703) 434-0757	Winchester, City	069	B. Brockenbrough	(804) 220-6136
		W. Lilly	(703) 434-0757	York, County	199	J. Cattet	(703) 667-1815
Henrico, County	087	R. Shingleton	(804) 672-4374			M. Harris	(804) 890-3521
		F. Castlevicchi	(804) 672-4374	For Assistance Call:			
		J. Cooper (P, M)	(804) 672-4374	Training and Certification	761	D. Alterescu	(804) 371-7182
		W. J. Williams	(804) 672-4374	Va. Apprenticeship Program	762	R. Baumgardner	(804) 786-3259
		I. Cullingsworth	(804) 672-4374				
		C. Harris	(804) 672-4374	(E) Electrical only			
		G. Revers	(804) 672-4374	(M) Mechanical only			
Hopewell, City	670	J. Arst	(804) 541-2226	(P) Plumbing only			
Isle of Wight	093	A. Berkley	(804) 357-3191				
James City, County	095	J. Williamson	(804) 253-6626				

Revised 10-27-92 C:TLT



Commonwealth of Virginia
Contractor



CANDIDATE INFORMATION BROCHURE

Revised 1/17/09

To Apply

To take the designated employee examination required for Class A or Class B Contractors, complete the application form and mail it with a check, preferably cashier's check, or money order made payable to NAI. Each section of the examination costs \$20. Class B applicants take the first two sections (S40) and Class A applicants take all three sections (S60). Retakes are \$20 per section. Address correspondence to:

National Assessment Institute
3813 Gaskins Road
Richmond, Virginia 23233
(804) 747-3297
(800) 556-3381 (in Virginia)
(804) 747-5489 (Fax)

An admission notice will be mailed to you at least two weeks prior to the exam date you select. If you do not receive this letter within five working days of that date, call NAI. Bring the admission notice to the exam site, along with a photo ID.

Scores will be mailed to you and the Department of Professional and Occupational Regulation within ten working days (two weeks). If you do not receive your score report after that time, call NAI. If you fail any part, a retake form is included with your score report.

Candidates with disabilities may request an Accommodation Form along with the Application for Examination. The form provides guidance as to how accommodation may be achieved and the type of documentation that is required. The Accommodation Form must be returned by the deadline for examination application. Contact NAI for the forms or information regarding accommodation.

What to Bring

- Two #2 pencils, sharpened
- Your admission notice, along with a picture ID
- Silent, non-programming calculator
- This is an open-book exam. All reference materials, except formula/tables, are permitted. NAI reserves the right to approve all materials brought to the exam site.

Rescheduling

To reschedule an exam, submit a new date of choice and a rescheduling fee of \$15 to NAI on or before your original exam date. If you fail to appear for an exam for which you are scheduled, your fees are forfeited and you must reapply.

Walk-in Exams

For an additional \$20 fee, persons who have not preregistered for an exam may still take it on a space-available basis at all sites except Galax, Richlands and Big Stone Gap. Walk-in exams are given daily in Richmond at 8:00AM, except on regularly scheduled testing days.

Study Manual

A reference manual for this open-book test is available from NAI for \$25. This manual includes sections on business planning and organization, licensing, payroll, project management, contracts, referenced laws, and regulations.

Practice Examination

This is a three part, full-length practice test, with answers, which provides the same subject areas and types of questions that appear on the actual Class A or Class B examinations. It also includes a section of tips for improving candidate performance on multiple choice examinations. Cost for the practice test is \$25.

Expedited Scoring

For a fee of \$15, your exam can be scored immediately after taking the test. If you fail part of the exam, you may retake it the same day, if time is available. Expedited scoring is not available in Galax, Richlands or Big Stone Gap.

Expedited scoring fees must be prepaid with your registration.

All fees are nonrefundable.

Examination Content Outline

This outline is for the exam. It is divided into three parts. Class B candidates select either Part 1 or Part 2. Class A candidates select either Part 1 or Part 2. Candidates who are registered for the exam must bring this outline to the exam site.

- Part 1—Virginia Section (60%, 1 hour)**
- Penalties for Contractors
 - Bond Rules & Regulations
 - Building Codes
 - Transportation Safety Fund

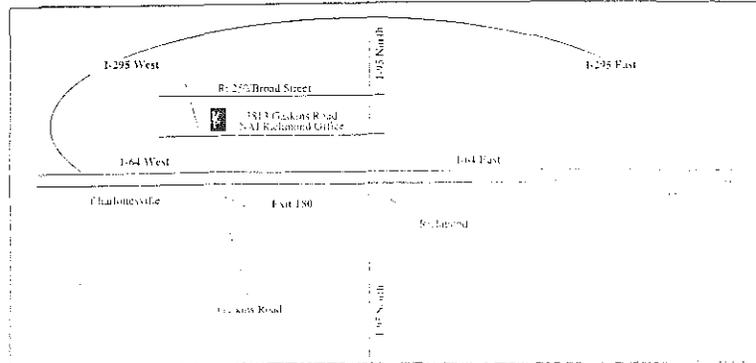
Content Outline (cont'd.)

Part 2—General Section (60%, 2 hours)	
Project Management	12
Contract Management	12
Financial Management	10
Safety/Labor/Payroll	11
Risk Management	7
Part 3—Advanced Section (60%, 1 hour)	
Project Management	4
Contract Management	6
Financial Management	4
Safety/Labor/Payroll	8
Liens/Risk	2

Examination Dates and Locations

Exams are scheduled on a space-available basis. The dates below are tentative and based on the number of candidates scheduled or required to fill an exam site. Only the first date of each session is listed. Most sites have two or more test days per month—read your admission notice carefully. To be seated, your application and fee must be received by NAI at least two weeks before the requested exam dates. If you have not received an admission notice within five working days of that date, call NAI.

1995 Examination Dates and Locations						
Richmond	Northern VA	Norfolk	Lynchburg	Front Royal	Richlands	Big Stone Gap
Jan 24	Jan 10	Jan 17	Jan 24	Jan 4	Feb 11	Jan 14
Feb 21	Feb 8	Feb 14	Feb 21	Feb 1	Apr 8	Mar 11
Mar 28	Mar 7	Mar 21	Mar 28	Mar 1	Jun 10	May 13
Apr 25	Apr 17	Apr 18	Apr 25	Apr 5	Aug 5	Jul 8
May 23	May 4	May 16	May 23	May 3	Oct 14	Sep 9
Jun 27	Jun 1	Jun 13	Jun 27	Jun 7	Dec 9	Nov 11
Jul 25	Jul 6	Jul 18	Jul 25	Jul 12		
Aug 29	Aug 1	Aug 22	Aug 29	Aug 2		
Sep 26	Sep 12	Sep 12	Sep 26	Sep 6		
Oct 24	Oct 3	Oct 17	Oct 24	Oct 4		
Nov 28	Nov 7	Nov 21	Nov 28	Nov 1		
Dec 19	Dec 5	Dec 12	Dec 19	Dec 6		
Accomac						
Apr 15	Danville	Charlottesville				
Oct 21	Jul 26	Aug 31				



Virginia Contractor

EXPIRES 1/1/95



National Assessment Institute
 3813 Gaskins Road
 Richmond, VA 23233
 Phone: (804) 747-3297
 FAX: (804) 747-5489

Contractor Examination Application

1 Complete this application and mail it with a cashier's check or money order payable to NAI. The application and fee must be received by NAI at least two weeks before your selected examination date. Late applications will be processed for the next examination date at the same site. If you have not received an admission letter within five working days of your requested date, call NAI. Please print or type the information requested below.

Name (First, MI, Last):	Social Security Number:
Street Address:	Company:
City, State, Zip Code:	Daytime Telephone Number:

I attest that I am a full-time employee of the above mentioned company and that I am at least 18 years of age. I further attest that this application is true and any misrepresentation may be grounds for the declaration that the examination results are null and void.

 Signature Date

2 Please place a check mark or an X to the left of the exam requested.

CLASS A		CLASS B		OPTIONAL SERVICES	
<input type="checkbox"/>	PART 1 - Virginia Section \$20	<input type="checkbox"/>	PART 1 - Virginia Section \$20	<input type="checkbox"/>	Contractor's Reference Manual \$25
<input type="checkbox"/>	PART 2 - General Section \$20	<input type="checkbox"/>	PART 2 - General Section \$20	<input type="checkbox"/>	Contractor Practice Exam \$25
<input type="checkbox"/>	PART 3 - Advanced Section \$20			<input type="checkbox"/>	Expedited Scoring \$15

Unless applying under Board of Contractors Regulation 2.5.A, candidates must take all parts of the Class A/Class B Contractor examination. If applying under 2.5.A, you must attach a letter of approval from the Board.

3 Please put a check mark or X to the left of the 1995 date and site you wish to attend.

Front Royal	Lynchburg	Norfolk	Northern Virginia	Richmond
<input type="checkbox"/>				
<input type="checkbox"/>				
<input type="checkbox"/>				
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EXPIRES 7/1/95

Final Regulations



COMMONWEALTH of VIRGINIA

RAY ALLEN, JR.
DIRECTOR

Department of Professional and Occupational Regulation
3600 WEST BROAD STREET, RICHMOND, VIRGINIA 23230-4917

DEPUTY DIRECTORS:
JACK E. KOTVAS
CHIEF DEPUTY DIRECTOR
THOMAS A. GELOZIN
ADMINISTRATION AND FINANCE
JAMES L. GUFFEY
INVESTIGATION AND ADJUDICATION

CLASS C CONTRACTORS CERTIFICATION APPLICATION PACKAGE

The BOARD FOR CONTRACTORS would like to welcome your firm to its licensure program. To become a licensed contractor, please review the current law and regulations governing contractors, then complete the accompanying application, including the attached reference forms.

CERTIFICATION: This package is to be used in applying for a Class "C" contractor's certificate. A Class "C" is required in order to be eligible to bid on or engage in jobs when the total value referred to in a single contract or project is less than \$7,500 or is more than \$1,000. Within any 12 month period, the total amounts of contracts is to be no more than \$150,000. (NOTE: Landscape Irrigation and Water Well contractors need to be licensed even when a contract or project is for an amount of \$1,000 or less.)

FEES: The fees for a Class "C" certificate are \$90. For more information on these fees, see § 2.5 of the regulations of the Board for Contractors and § 54.1-119 of the Code of Virginia. Make your firm's check for fees payable to the "Treasurer of Virginia". Fees required by the Board for Contractors are valid for a period of one year from the date of receipt and are non-refundable.

DOCUMENTATION: Follow the instructions on the accompanying sheets and complete the application in its entirety, including the attached Bank Reference Form, three Credit Reference Forms, and three Experience Reference Forms. Should the Contractors Licensing Section determine that your application is incomplete, your firm will be notified in writing of any incomplete items. Applications are valid for a period of 12 months from the date they are received.

TELEPHONE (804) 367-8500
FAX (804) 367-9753

BOARD FOR CONTRACTORS
Contractor's License Application

Class C Instructions

- Remove, Read, and then complete the application and all reference forms in this booklet.
- Type or print information in the application package.
- Social security numbers are requested but not required on this application.
- Prior to forwarding your firm's application package to the Board for Contractors, please review your application and documentation to ensure that it is complete. It is also recommended that another person review your application package before it is submitted to the Board.
- Only original application and reference documents will be accepted. (No Facsimiles)
- § 54.1-111(6), of the Code of Virginia, makes it unlawful to materially misrepresent facts in an application for a license, certification or registration. Violations of this statute are subject to criminal prosecution which could result in a conviction with a sentence of up to one year in jail and/or up to a \$2,500 fine.
- Be sure to enclose the \$90.00 fee with your package.

INSTRUCTIONS

The numbers below correspond directly to the number on the application form. You may want to separate these instructions from the application package so that you will be able to use both without flipping back and forth.

GENERAL INFORMATION

1. Business name

Enter the name in which your firm will be doing business. In the case of a sole proprietorship, this should be the name of an individual. In the case of a general partnership, this should be the names of the individual partners (please include their first initial with their last name).

2. Firm's trade or "fictitious" name

Enter the name in which your firm will present itself. The following are examples to assist you:

- A. Sole Proprietorship - John Doe ("business name" in #1) trading as XYZ ("trade or fictitious name" in #2).
- B. General Partnership - J. Smith & M. Jones ("business name" in #1) trading as Smith & Jones ("trade or fictitious name" in #2)
- C. Corporation - XYZ Inc. ("business name" in #1) trading as XYZ Builders ("trade or fictitious name" in #2). NOTE: The name of a corporation must be on file with the Virginia Corporation Commission.

3. Enter the street address or actual location of your business. A post office box is not acceptable!
4. Enter your firm's mailing address. A post office box is acceptable.
5. Enter your firm's telephone and facsimile (fax) numbers.
6. Select the type of business for your firm's licensure.
7. Enter Federal Employer Identification Number (Tax) (unless Sole Proprietor). If you do not have a FEI number contact the Internal Revenue Service to obtain one.
8. Enter the requested information. Please remember that you can select more than one. However, if Specialty is selected you must identify the specialty in #10 and provide the additional requirement information in the "Required Documentation" section of this booklet.
9. Enter the "Qualified Individual" for each classification. If you require clarification on this term please turn to page 9 of the Boards Regulations and Laws booklet.
10. Select any and all specialty classifications for which application is being made. Definitions for each can be found on pages 2-5 of the Boards regulations and laws booklet.
11. Enter the "Qualified Individual" for each specialty classification and follow the instructions at the asterisk (*). NOTE: These is a two year experience requirement for each specialty that you select. These information must be provided in #12.
12. & 13. Enter information using additional sheets if necessary.
Note: Questions 14, 15, & 16 pertain to Virginia contractor's licenses only!
14. Check the appropriate answer which applies to your firm, if "Yes" is selected enter the additional information.
15. Check the appropriate answer which applies to your firm and follow the directions after the space provided.
16. If you answered yes to question #15 provide the requested information about that

person(s) in the spaces provided. This information in on other business not the proposed business for which you are seeking licensure.

Note: Questions 17, 18, 19, & 20 pertain to Non-Virginia contractor's only!

17. Check the appropriate answer which applies to your firm **and** follow the directions after the space provided.
18. If you answered yes to question #17 provide the requested information about that person(s) in the spaces provided. This information in on other business not the proposed business for which you are seeking licensure.
19. Check the appropriate answer which applies to your firm **and** follow the directions after the space provided.
20. If you answered yes to question #19 provide the requested information about that person(s) in the spaces provided. This information in on other business not the proposed business for which you are seeking licensure.

BACKGROUND INFORMATION

Section 2.2.(G) of the Board's regulations allow the Board, in its discretion, to deny licensure to any firm in which the sole proprietor, officers of the corporation, partners of the general partnership, members of the association, or designated employee have been convicted in any jurisdiction of a misdemeanor involving lying, cheating, or stealing; or of any felony. Any plea of nolo contendere shall be considered a conviction for the purposes of this subsection.

Should you answer "yes" to either question #21 or #22, you must include the following documentation for each firm and/or individual identified in your application.

- A copy of all applicable criminal conviction records. If convicted in Virginia, criminal records are available from the Virginia State Police, Criminal Records Division. If convicted in another state, contact the state police for that jurisdiction, and
- A copy of all applicable court records including a copy of the court order, and
- A statement concerning the current status of the firm and/or individuals with regard to incarceration, parole, probation, etc., and
- Any other information you wish to have considered in the review of your application (i.e. reference letters, documentation of rehabilitation or corrective actions, etc.).

21. & 22. Carefully read these questions and check the appropriate response which applies to your firm. You may use additional sheets if necessary in providing this information. Be as thorough as possible, the asterisks (*) at the end of each question section will assist you in gathering "Required Documentation".

23. Check the appropriate answer which applies to your firm. If you answer "No," you must provide the requested information. The Board for Contractors is required to request this information.

FINANCIAL INFORMATION

The following information is required in addition to the Bank and Credit Reference sheets included in this package. Questions 24 & 25 must include any and all information for any financial institution or sources. If you answer "Yes" to either question, you must enter an explanation of the events, including the dollar amounts involved and information on the payment arrangements.

24. Check the appropriate answer which applies to your firm.
25. Check the appropriate answer which applies to your firm's qualified individual(s), or responsible management. Please note that this question deals only with past-due debts, outstanding judgements and defaults on bonds that are directly related to the practice of contracting.

POWER OF ATTORNEY

The following questions pertain to a statutorily mandated requirement for licensure. Should you have questions please refer to § 54.1-1113 in the "Regulations and Laws" booklet.

26. Check the appropriate answer which applies to your firm. If you answer "Yes", you must answer question #27.
27. Check the appropriate answer which applies to your firm. If you answer "No", this application cannot be processed.

BOARD FOR CONTRACTORS Class C Contractor's Application

Required Documentation

Your firm can avoid delays in the licensing process by sending a completed application package. Below is a checklist of the information which must be included in your application package. This list is for your use and should not be forwarded as part of your application package.

Please remember that only original documents will be accepted! Original signatures must appear on the application. NO FACSIMILES WILL BE ACCEPTED.

All completed application packages will include the following:

- _____ A completed application
- _____ A \$50 check made payable to the "Treasurer of Virginia".
- _____ The original copy of the completed Bank Reference Form.
- _____ The original copies of the three completed Credit Reference Forms.
- _____ The original copies of three completed Experience Reference Forms for each qualified individual listed on your application.

Note: If only one person is listed as a qualified individual for more than one license classification and/or specialty service, a total of three Experience Reference Forms are required in your application package. If two or more people are listed as qualified individuals for more than one license classification and/or specialty service, three Experience Reference Forms are required for each person listed. If additional forms are needed, blank forms may be photocopied.

Additional information is required to complete your application package in the following situations:

- _____ Limited Liability Companies A copy of the Certificate of Organization which is issued by the Virginia State Corporation Commission
- _____ Blast/Explosive Contracting A copy of your qualified individual's Blastor Certification or a Temporary Blastor Certification issued through your local certifying agent of the Department of Housing and Community Development's Tradesman Certification Program
- _____ Writen Well Contracting A copy of your qualified individual's National Ground Water Association/National Water Well Association (NGWA - NWAWA) General Exam pass notice received by the Department of Professional and Occupational Regulation

Note: This documentation is required only for those applicants who do not have ten years of experience in water well contracting and five water well contracting experience references which may be used instead of the experience references during the May 1993 through January 1995 time period.

Previously Disciplined Firms, Qualified Individuals, and/or Responsible Management

Copies of any correspondence or documentation related to the disciplinary action imposed by the Virginia Board for Contractors, an out-of-state contractor licensing authority, or other state or national regulatory body during the past five years.

Firms, Qualified Individual(s), and/or Responsible Management with Previous Felony or Contractor-Related Misdemeanor Convictions

Copies of all the following documents:

- _____ A copy of all applicable criminal convictions records. If convicted in Virginia, criminal history records are available from the Virginia State Police, Criminal Records Division. If convicted in another state, contact the state police for that jurisdiction.
- _____ A copy of all applicable court records (including a copy of the court order).
- _____ A statement concerning the current status of the firm and/or individuals with regard to incarceration, parole, probation, etc.
- _____ Any other information to be considered in the review of the application (i.e., reference letters, documentation of rehabilitation and corrective actions, etc.)

If the Contractors Licensing Section finds that your application does not include all the necessary documents, your firm will be notified in writing. Complete applications are valid for one year following the date they are received.

12/27/1992 (7/1/93)

(20110-0121-10)

12/27/1992 (7/1/93) - Required Documents 2

BOARD FOR CONTRACTORS
Class C Contractor's Application

Trade-Related Examinations and Qualifications

The Board for Contractors requires licensed contracting firms to have a qualified individual for each classification or specialty service printed on the license. The qualified individual in a Class "C" firm must have at least two years of experience in the appropriate classification or service.

In addition to the number of years of experience required, some specialty services require that the qualified individual successfully complete a trade-related exam in order to obtain and maintain a contractor's license. The Board for Contractors currently requires trade-related exams for Class "C" contractors in the blast/explosive, radon mitigation, and water well contracting specialty services.

Note: An individual fulfilling the trade-related examination requirement for a contracting firm must also serve as the firm's qualified individual (see #11 on your application).

Trade-Related Exams and Additional Qualifications for Specialty Services Classifications

In order to receive a contractor's license for some specialty service classifications, trade-related exams and/or additional licensing are required. Those specialty services with additional requirements are as follows:

Asbestos (ASB)
Contracting Service

Firms applying for this specialty service classification must also apply for a separate "Asbestos Contractor's License" or "RFS Contractor's License" issued by the Department of Professional and Occupational Regulation. To obtain this license contact the Virginia Board for Asbestos Licensing at (804) 367-8595 or (804) 367-2176.

Blast/Explosive (BEC)
Contracting Service

Firms applying for this specialty service classification must:

1. also qualify for the Highway/Heavy (H/H) license classification, and
2. employ a qualified individual who has a Blaster Certification or a Temporary Blaster Certification issued through the Virginia Department of Housing and Community Development's Tradesman Certification Program. To schedule your qualified individual for the Blaster Certification exam, contact the National Assessment Institute (NAI) at the address and telephone number listed on the first page of this section.

Radon Mitigation (RMC)
Contracting Service

Firms applying for this specialty service classification must:

1. also qualify for the Building (BLD) license classification, Commercial Improvement (CIC) specialty service, Farm Improvement (FIC) specialty service, or Home Improvement (HIC) specialty service, and
2. be listed as proficient in radon mitigation by the U.S. Environmental Protection Agency. For more information on the U.S. Environmental Protection Agency's Mitigation Guidelines and Protocols, contact the Virginia Department of Health at 1-800-468-0138 (in Virginia) or (804) 785-5932 outside of Virginia.

Water Well (WWC)
Contracting Service

A qualified individual for firms applying for this specialty service classification must have successfully completed the National Ground Water Association (NGWA)/National Water Well Association (NWWA) General Exam. To schedule your qualified individual for the NGWA/NWWA exam, contact the Department of Professional and Occupational Regulation Examinations Section at (804) 367-8569.

Note: From May 1993 through January 1995, a qualified individual with ten (or more) years of experience in water well contracting and five water well contracting experience references is not required to take the exam.

Commonwealth of Virginia

Department of Professional and Occupational Regulation
 3600 West Broad Street
 Post Office Box 11066
 Richmond, Virginia 23230-1066



BOARD FOR CONTRACTORS
 Contractor's Class "C" Certificate Application
 Fee for Class "C" Certificate \$ 90

NOTE: Contractors wishing to practice in the electrical; plumbing; or heating, ventilating and air conditioning (HVAC) classifications **MUST HOLD** either a Class "A" or Class "B" license in accordance with §54.1-1103 of the Code of Virginia.

General Information

1. Business name _____
2. Firm's trade or "fictitious" name _____
3. Street address (P.O. Box not accepted) _____
 City, State, Zip Code _____
4. Mailing address (P.O. Box accepted) _____
 City, State, Zip Code _____
5. Telephone numbers _____
 Fax numbers _____
6. Type of business (check only one)
 - Sole Proprietorship _____ Sole Proprietor's social security number _____
 - General Partnership _____
 - Limited Partnership _____
 - Association _____
 - Limited Liability Company _____
 - Corporation _____
7. Federal Employer Identification Number (not required for Sole Proprietors) _____

FORM OFFICE USE ONLY	Finance	Fee	Class of Fee	License Number	Date	Initials

LRNP (04/94)

License Classifications

8. License (trade) classification(s) for which your firm is applying (check that apply)
 - Building (BLD) _____
 - Highway/Heavy (H/H) _____
 - Specialty* _____

* Businesses applying under specialty classification must identify specialty services in #10.

9. Qualified individuals for each classification (not including the specialty classification) checked in #8

Classification	Last Name	First Name	M.I.	Years	SS No.	Birth Date
Building						
Highway/Heavy						

10. Identify the types of services to be performed under the specialty classification (check that apply).

- | | |
|--------------------------------------|-----------------------------------|
| Alarm/Security Systems (ALS) _____ | Home Improvement (HIC) _____ |
| Appliances/Fixtures (APF) _____ | Landscape Irrigation (LSC) _____ |
| Asbestos (ASB)* _____ | Landscape Service (LSC) _____ |
| Billboard/Sign (BSC) _____ | Miscellaneous (MSC) _____ |
| Blast/Explosive (BEC)* _____ | Modular/Mobile Bldg (MBC) _____ |
| Commercial Improvement (CIC) _____ | Marine Facility (MCC) _____ |
| Electronic/Communication (ESC) _____ | Passive Energy Sys (PES) _____ |
| Elevator/ Escalator (EEC) _____ | Radon Mitigation (RMC)* _____ |
| Environmental Systems(EVS) _____ | Recreational Facility (RFC) _____ |
| Equipment/Machinery (EMC) _____ | Striping/Driveway (SOC) _____ |
| Farm Improvement (FIC) _____ | Vessel Construction (VCC) _____ |
| Fire Alarm-Ext. Systems (FAE) _____ | Water Well (WWC)* _____ |

* Means specialty classification with additional licensing requirements (see "Trade-Related Examinations and Qualifications" section and "Required Documentation" section of this booklet).

11. Qualified individual for each specialty service classification checked in #10

Code*	Last Name	First Name	M.I.	Years	SS No.	Birth Date

* Enter the three-letter codes printed next to the specialty service classifications checked in #10

CPNP (04/94)

BOARD FOR CONTRACTORS, Class "C" Application

12. Experience of qualified individual(s) listed in #9 and #11

Business Information

13. Firm's responsible management

Last Name	First Name	M.I.	Title	SS No.	Birth Date

14. Does your firm hold another current or expired Virginia contractor's license?

No _____

Yes _____ License number _____ Expiration date _____

15. Do any of your firm's qualified individuals (identified in #9 and #11) or responsible management (identified in #13) hold another current or expired Virginia contractor's license?

No _____ If no, skip to #17.

Yes _____ If yes, complete the table in #16.

16. Qualified individual(s) or responsible management in your firm who hold another current or expired Virginia contractor's license

Individual's Name	Title	Firm Name	License Number	Expiration Date

CPA-2 (04/15/11)

CPA-2 (04/15/11)

BOARD REGULATIONS, CASE NO. 1000000000

BOARD REGULATIONS, CASE NO. 1000000000

17. Does your firm hold a current or expired contractor's license/registration/certification in another state?

No _____ If no, skip to #19.

Yes _____ If yes, complete the table in #18.

18. Other states where your firm holds a current or expired license/registration/certification

Firm Name	State	Lic/Reg/Cert No.	Expiration Date

19. Do any of your firm's qualified individuals or responsible management hold a current or expired contractor's license/registration/certification in another state?

No _____ If no, skip to #21.

Yes _____ If yes, complete the table in #20.

20. Qualified individual(s) or responsible management who hold a current or expired out-of-state contractor's license/registration/certification

Individual's Name	Firm Name	State	Lic/Reg/Cert No.	Expiration Date

Background Information

21. During the past five years, has your firm, designated employee, qualified individual(s), or responsible management been subjected to any disciplinary action imposed by the Virginia Board for Contractors, an out-of-state contractor licensing authority or any other state or national regulatory body that resulted in their contractor's license being suspended, revoked, or surrendered or a monetary penalty or fine being imposed?

No _____

Yes* _____ If yes, list the name of the firm and/or individuals, the state in which the disciplinary action took place, an explanation of events, including a description of the disciplinary event on next page)

3

4

Financial Information

24. During the past five years, has your firm had any past-due debts, outstanding judgments, outstanding federal or state tax obligations, or defaults on bonds?

No _____
 Yes _____ If yes, enter an explanation of the events including the dollar amounts involved and information on the payment arrangements.

25. During the past five years, has your firm's qualified individual(s), or responsible management had any past-due debts, outstanding judgments or defaults on bonds directly related to the practice of contracting?

No _____
 Yes _____ If yes, enter an explanation of the events including the dollar amounts involved and information on the payment arrangements.

Power of Attorney

26. Is your firm an out-of-state (foreign) sole proprietorship, general partnership or association?

No _____ If no, skip to #28.
 Yes _____ If yes, answer #27.

27. Does your firm understand that this application serves as a written power of attorney whereby your firm appoints the Director of the Department of Professional and Occupational Regulation, and his/her successors in office, to be your firm's true and lawful agent and attorney-in-fact, in your firm's stead, upon whom all legal process against and notice to your firm may be served and who is hereby authorized to enter an appearance in your firm's behalf in any case or proceedings, and that by signing this application your firm hereby agrees that any lawful process against your firm which is duly served on this agent and attorney-in-fact shall be of the same legal force and validity as if served upon your firm.

Yes _____
 No _____ If no, this application cannot be processed.

proceeding and the type of sanctions that were imposed (i.e., suspension, revocation, fines, etc.). Please attach a separate piece of paper, if necessary.

* If you answered "yes," you must include copies of any correspondence or documentation related to the disciplinary action with your application package. See the "Instructions" and "Required Documentation" sections of this booklet for details.

22. Has your firm, qualified individual(s), or responsible management been convicted of any felony, or within the three years prior to application, of any misdemeanor?

No _____
 Yes* _____ If yes, list the name of the firm and/or individuals and the felony and/or misdemeanor convictions.

* If you answered "yes," additional documentation must be submitted with your application package. See the "Instructions" and "Required Documentation" sections of this booklet for details.

23. Are your firm's qualified individual(s), and responsible management, all eligible for employment in the United States?

Yes _____
 No _____ If no, enter the names of the individuals not legally eligible for employment in the U.S. and information on their current employment status.

Final Regulations

The undersigned affirms that the foregoing statements and answers are true, that I (we) have complied with all laws of Virginia affecting contractors who come under the provisions of Title 54.1, Chapter 11, of the Code of Virginia, which are applicable to my (our) business, and that I (we) understand the Board for Contractors regulations and licensing law.

28. Responsible management

Signature _____ Title _____ Date _____
Signature _____ Title _____ Date _____
Signature _____ Title _____ Date _____
Signature _____ Title _____ Date _____

29. Qualified individual(s)

Signature _____ Date _____
Signature _____ Date _____
Signature _____ Date _____
Signature _____ Date _____



BOARD FOR CONTRACTORS
Bank Reference

The information provided on this form will become the property of the Virginia Board for Contractors. Once both sides of the form are completed, attach this reference to your firm's application package. Photocopies will not be accepted. Letters of reference may not be substituted for this reference form.

Instructions:

Section A (front): To be completed by applicant
Section B (back): To be completed by a bank, savings & loan or credit union, and returned to the applicant named in Section A

Section A

- Type of certificate/license for which your firm is applying (check only one)
 Class "C" Certificate _____
 Class "B" License _____
 Class "A" License _____
- Name in which firm will conduct business _____
- Mailing address (including zip code) _____

- Account numbers
 Checking _____
 Savings _____
 Other (include type of account) _____
- Authorization
 I, _____, serving as the above-named firm's Sole Proprietor,
 General Partner, Managing Partner, Association Officer/Director, Limited Liability Company Manager, or
 Corporation Officer, hereby authorize _____ to furnish the information
 requested in Section B (on the back of this form).
 Signature _____ Date _____
 Title _____

CONTRACTOR 1991

REPRODUCTION OF THIS DOCUMENT IS PROHIBITED

Section B

- Name of financial institution _____

- Address of financial institution _____

- Name of bank official completing this reference form _____
- Title of bank official completing this reference form _____
- Types of accounts that are held at your institution by the firm listed in Section A-#2 (check all that apply).
 Checking _____
 Savings _____
 Other _____ Please list the types of other accounts held by the firm.

- Has the firm satisfactorily maintained these accounts?
 Yes _____ No _____ If no, please provide details in the space provided in #7.
 Please provide any comments/information regarding the firm's maintenance of these accounts
 checked in #5.

- Signature of bank official _____ Date _____
 Title of bank official _____ Telephone (____) _____

CONTRACTOR 1991

REPRODUCTION OF THIS DOCUMENT IS PROHIBITED

BOARD FOR CONTRACTORS
Credit Reference



The information provided on this form will become the property of the Virginia Board for Contractors. Once both sides of the form are completed, attach this reference to your firm's application package. Photocopies will not be accepted. Letters of reference may not be substituted for this reference form.

Instructions:

Section A (front): To be completed by the applicant.

Section B (back): To be completed by a creditor (i.e., lending institution, material supplier, etc.), and returned to the applicant named in Section A.

Section A

1. Type of certificate/license for which your firm is applying (check only one) Class "C" Certificate _____
Class "B" License _____
Class "A" License _____

2. Name in which firm will conduct business _____

3. Mailing address (including zip code) _____

4. Account numbers _____

5. Authorization

I, _____ serving as the above-named firm's Sole Proprietor,
Name of responsible management completing form

General Partner, Managing Partner, Association Officer/Director, Limited Liability Company

Manager, or Corporation Officer, hereby authorize _____
Name of creditor

to furnish the information requested in Section B (on the back of this form).

Signature _____ Date _____

Title _____

Section B

1. Name of creditor _____

2. Address of creditor _____

3. Name of credit representative completing this reference form _____

4. Title of credit representative completing this reference form _____

5. Types of accounts that are maintained by the firm listed in Section A-#2

6. Has the firm satisfactorily maintained those accounts?

Yes _____

No _____ If no, please provide details in the space provided in #7.

7. Please provide any comments/information regarding the firm's maintenance of those accounts listed.

8. Signature of credit representative _____ Date _____

Title of credit representative _____ Telephone (____) _____

BOARD FOR CONTRACTORS
Experience Reference



The information provided on this form will become the property of the Virginia Board for Contractors. Once both sides of the form are completed, attach this reference to your firm's application package. Photocopies will not be accepted. Letters of reference may not be substituted for this reference form.

Instructions:

Section A (front): To be completed by the applicant.

Section B (back): To be completed by a person familiar with the work of the applicant firm's qualified individual (s) and returned to the applicant firm named in Section A. Experience references could be provided by previous clients, former employers, contractors, engineers, architects, and building officials.

Section A

- Type of certificate/license for which your firm is applying (check only one)
 - Class "C" Certificate
 - Class "B" License
 - Class "A" License
- Name in which firm will conduct business _____
- Mailing address (including zip code) _____
- License and/or specialty service classifications for which your firm is applying and the name of your firm's qualified individual for those classifications

License Classification/Specialty Service Classification	Name of Qualified Individual

5. Authorization

I, _____ serving as the above-named firm's Sole Proprietor,
Name of responsible management completing form
 General Partner, Managing Partner, Association Officer/Director, Limited Liability Company
 Manager, or Corporate Officer, hereby authorize _____ to
Name of experience reference
 furnish the information requested in Section B (on the back of this form).
 Signature _____ Date _____

Section B

- Name of person providing reference _____
- Address of person providing reference _____
- Describe the specific type of work (with which you are familiar) performed by the qualified individual listed in Section A-#4. Your description must correspond to the classifications listed next to the individual's name.

- Was the work (described in #3) satisfactory? Yes _____ No _____
- Signature of reference _____ Date _____
 Daytime telephone (_____) _____

K. UNSATISFIED JUDGEMENTS: Are there any unsatisfied judgements, arising out of a contracting transaction, against the individual listed in Section D of this application or are there any unsatisfied judgements against a contracting firm which originated while any of those individuals listed in Section D was the sole proprietor, general partner, managing partner, association member, corporate officer or the designated employee of that contracting firm? YES NO If yes, please explain thoroughly, on a separate sheet of paper, the events or matter in question, including the dollar amounts involved. (See §§ 2.1 C and 2.2 C of the Board's regulations.)

L. SIGNATURES: Complete the following:

AFFIDAVIT: The undersigned swears under pains and penalties of perjury that the foregoing statements and answers are true, that I (we) have complied with all laws of Virginia affecting contractors who come under the provisions of Title 54.1, Chapter 11, of the code of Virginia, which are applicable to my (our) business, and that I (we) understand the Board for Contractor's regulations and licensing law as well as this affidavit.

Note: This application will not be processed without the following applicable signatures.

a. Please provide in the following space the printed name and firm title of the contracting firm's sole proprietor, general partner, managing partner, association member or corporate officer, then in the following space provide the signature and date of signature of that person:

NAME (PRINT): _____ TITLE: _____
SIGNATURE: _____ DATE: _____

b. Please provide in the following space the signature and date of signature of the designated employee listed in Section D this application:

SIGNATURE: _____ DATE: _____

*** OTHER IMPORTANT INFORMATION:**

1. Section 54.1-111(6), of the Code of Virginia, makes it unlawful to materially misrepresent facts in an application for a license, certification or registration. Violations of this Section are subject to criminal prosecution, which could result conviction and in a sentence of up to 1 year in jail and/or up to a \$2,500 fine.
2. These materials will not be processed if more than 90 days have elapsed from the date this application was completed and notarized to the date this application was received by the Department of Professional and Occupational Regulation.
3. The Board for Contractors is responsible for the approval or disapproval of license applications. Some applications may be approved/disapproved by the Board. The Board is only required to meet quarterly.
4. Violations of the license law or regulations can result in the suspension or revocation of a license.
5. Social Security Numbers are requested but not required on this application.

Final Regulations

COMMONWEALTH OF VIRGINIA - DEPARTMENT OF PROFESSIONAL AND OCCUPATIONAL REGULATION
 BOARD FOR CONTRACTORS
 POST OFFICE BOX 11066, RICHMOND, VIRGINIA 23220-1066

CONTRACTORS CHANGE OF CORPORATE OFFICERS APPLICATION

FOR OFFICE USE ONLY	FINANCE: NO. ACTION	FEE AMT.: NO. FEE DUE	CLASS FEE: NO. FEE DUE	LIC. NO.:	DATE:	CODE:
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GUIDELINES: This application is provided to those Class "A" or Class "B" contracting firms, which are corporations, seeking to change the persons representing their firm as officers of the corporation and is based on Title 54-1, Chapters 1, 2, 3 and 11, of the Code of Virginia and the Regulations of the Board for Contractors.

INSTRUCTIONS: Read the law and regulations carefully to be sure that your firm is eligible to complete this application. Also, carefully read through this application and complete it in its entirety. Submit all required information and attachments. Print or type where applicable.

A. IDENTIFICATION: Let your firm's license number: _____ Expire Date: _____

B. NO FEES DUE WITH THIS APPLICATION: There is no fee for reporting a change in your firm's corporate officers.

C. GENERAL INFORMATION: Enter your firm's name, address, mailing address, and telephone number:

1. Name in Which Firm Conducts Business: _____

2. Business Address (P.O. Box Not Accepted): _____

3. Mailing Address (Include Zip Code): _____

4. Telephone Number(s): () () FAX () ()

D. NEW CORPORATE OFFICERS: Please print in the following space the name of your firm's new corporate officers. Also, indicate each person's firm title, his/her Social Security Number, birth date and place of birth. (See § 4.1 of the Board's regulations):

LAST NAME	FIRST	M. I.	TITLE	SOC. SEC. NO.	BIRTH DATE	BIRTH PLACE

E. PREVIOUS APPLICATION: Have any of the individuals listed in Sections D of this application been or are they currently licensed as contractors in any other state? If so, please list the state and the date of expiration of the license for a contracting firm which they are licensed in and by the Board for Contractors? YES NO

Fit in the following space all of those individuals and dates they held in that firm, the name of those firms, the corresponding license or registration number for those firms and the expiration date of those licenses or registrations. (See § 54-1-1110 of the Code of Virginia and § 2.1 B and 2.2 B of the Board's Regulations.)

INDIVIDUAL'S NAME	TITLE	FIRM NAME	LIC./REGISTRAT. NO.	EXPIRATION DATE

F. ASSURANCE OF COMPLIANCE: Have any of the individuals or firms listed in Section E of this application failed to properly maintain a current Virginia contractor license or a Virginia contractor license which expired less than 6 months ago? YES NO If yes, you are required to attach those licenses to the Change Application.

REG-5-107-01-92) 1 C.O. CHANGE APPLICATION

G. OTHER STATES: If any of the individuals listed in Sections D of this application have been or are now licensed, registered or certified as a contractor in another state, please list the names of these individuals and/or firms, their license, registration or certification number and the expiration date of these licenses, registrations or certifications:

INDIVIDUAL'S NAME	FIRM NAME	LIC./REG./CERT. NO.	STATE	EXPIRE DATE

H. DISCIPLINARY ACTIONS: Have any of the individuals or firms listed in Sections D, E, or G of this application been subject to any disciplinary actions as a contractor or responsible management personnel of a contracting firm in this or any other state? YES NO If yes, please list on a separate sheet of paper the name of the individual or firm disciplined, the state in which these disciplinary actions took place, and attach to this application an explanation of events, a description of the disciplinary action taken, and the date of the action (See § 54-1-1110 of the Code of Virginia and § 2.1, 2.2 B, OR 2.3 C of the Board's regulations):

I. CRIMINAL CONVICTIONS: Please comply with the following (See §§ 2.1 C, 2.2 C, and 2.3 D of the Board's regulations):

1. Have any of the individuals or firms listed in Sections D, E, or G of this application ever been convicted of a felony or has your firm or any of the individuals or firms listed in Sections D, E or G of this application ever been convicted within the last 5 years of a misdemeanor involving lying, cheating or stealing? YES NO

2. If you answered no in Item 1, above, go to Section J.

3. If you answered yes in Item 1, above, please list in the following space the names of the individuals or firms convicted, the felonies for which they were convicted and/or the misdemeanors involving lying, cheating or stealing for which they were convicted within the last 5 years. If more room is needed, attach a separate sheet of paper. Once this Item has been completed, go to Item 4, below:

4. For each individual/firm identified in Item 3, above, you are required to submit the following materials:

a. A copy of all applicable criminal conviction records (if convicted in Virginia, criminal history records from the Virginia Department of Criminal Justice Services, P.O. Box 23427, Richmond, VA 23242. If convicted in another state, contact the state police for that jurisdiction.);

b. A copy of all applicable court records;

c. A statement concerning the current status of those individuals and firms identified in Item 3, above, with regard to incarceration, parole or probation, etc.; and,

d. Any other information you wish the Board to consider with regard to the convictions in question, such as letters of reference and/or documentation of rehabilitation or corrective actions.

Notes: If the individuals and/or firms identified in Item 3, above, have already submitted criminal conviction records, court records, statements and other information to the Board for Contractors with a previous application, which resulted in the issuance of a Virginia contractor's license/registration, and these same individuals or firms do not appear on the Board's list of Contractors Licensed/Registration, and these same individuals or firms do not appear on the Board's list of Contractors Licensed/Registration, you must submit a copy of the criminal conviction records, court records, statements and other information you wish the Board to consider with regard to the convictions in question, such as letters of reference and/or documentation of rehabilitation or corrective actions, to the Board's office. Please note, if these individuals or firms are currently licensed/registered by the Board's office, you may provide a statement, with this application, indicating that you have provided the Board with this information previously, which will exempt you from the requirement to submit this information with this application. If you are not currently licensed/registered by the Board's office, you must submit this information with this application. If you are currently licensed/registered by the Board's office, you must submit this information with this application, unless you have previously submitted this information to the Board's office.

5. If you answered yes in Item 1 and have completed Items 3 and 4, above, you are required to submit this information with the application and to return the application to the Board for Contractors.

REG-5-107-01-92) 2 C.O. CHANGE APPLICATION

J. **ELIGIBILITY:** Are all individuals listed in Sections D of this application legally eligible for employment in the United States? YES ___ NO ___ If no, please provide on a separate sheet of paper and attach to this application the names of those individuals not legally eligible for employment in the U.S. and an explanation of their current employment status.

K. **UNSATISFIED JUDGEMENTS:** Are there any unsatisfied judgements, arising out of a contracting transaction, against those individuals listed in Section D of this application or are there any unsatisfied judgements against a contracting firm which originated while any of the individuals listed in Section D of this application were the sole proprietor, general partner, managing partner, association member, corporate officer or the designated employee of that contracting firm? YES ___ NO ___ If yes, please explain thoroughly, in the following space, the events or matter in question, including the dollar amounts involved. If more room is needed, please attach a separate sheet of paper to this application. (See §§ 2.1 C and 2.2 C of the Board's regulations.)

L. **SIGNATURES:** Complete the following:

AFFIDAVIT: The undersigned swears under pains and penalties of perjury that the foregoing statements and answers are true, that I (we) have complied with all laws of Virginia affecting contractors who come under the provisions of Title 54.1, Chapter 11, of the code of Virginia, which are applicable to my (our) business, and that I (we) understand the Board for Contractors' regulations and licensing law as well as this affidavit.

Note: This application will not be processed without the following applicable signatures.

Please provide in the following spaces the signatures and dates of signatures of all those responsible management personnel listed in Section D of this application:

SIGNATURE: _____ DATE: _____

SIGNATURE: _____ DATE: _____

SIGNATURE: _____ DATE: _____

SIGNATURE: _____ DATE: _____

* **OTHER IMPORTANT INFORMATION:**

1. Section 54.1-111(6), of the Code of Virginia, makes it unlawful to materially misrepresent facts in an application for a license, certification or registration. Violations of this Section are subject to criminal prosecution, which could result conviction and in a sentence of up to 1 year in jail and/or up to a \$2,500 fine.
2. These materials will not be processed if more than 90 days have elapsed from the date this application was completed and notarized to the date this application was received by the Department of Professional and Occupational regulation.
3. The Board for Contractors is responsible for the approval or disapproval of license applications. Some applications may be approved/disapproved by the Board. The Board is only required to meet quarterly.
4. Violations of the license law or regulations can result in the suspension or revocation of a license.
5. Social Security Numbers are requested but not required on this application.

K. SIGNATURES: Complete the following:

AFFIDAVIT: The undersigned swears under pains and penalties of perjury that the foregoing statements and answers are true, that I (we) have complied with all laws of Virginia affecting contractors who come under the provisions of Title 54.1, Chapter 11, of the code of Virginia, which are applicable to my (our) business, and that I (we) understand the Board for Contractors' regulations and licensing law as well as this affidavit.

Note: This application will not be processed without the following applicable signatures.

- a. Please provide in the following space the printed name and firm title of the contracting firm's sole proprietor, general partner, managing partner, association member or corporate officer, then in the following space provide the signature and date of signature of that person:

NAME (PRINT): _____ TITLE: _____

SIGNATURE: _____ DATE: _____

- b. Please provide in the following space the signature and date of signature of the qualified individual listed in Section E or G this application:

SIGNATURE: _____ DATE: _____

*** OTHER IMPORTANT INFORMATION:**

1. Section 54.1-111(6), of the Code of Virginia, makes it unlawful to materially misrepresent facts in an application for a license, certification or registration. Violations of this Section are subject to criminal prosecution, which could result conviction and in a sentence of up to 1 year in jail and/or up to a \$2,500 fine.
2. These materials will not be processed if more than 90 days have elapsed from the date this application was completed and notarized to the date this application was received by the Department of Professional and Occupational Regulation.
3. The Board for Contractors is responsible for the approval or disapproval of license applications. Some applications may be approved/disapproved by the Board. The Board is only required to meet quarterly.
4. Violations of the license law or regulations can result in the suspension or revocation of a license.
5. Originally issued Class "A" and Class "B" contractor licenses expire two years from the month in which they were issued.
6. Social Security Numbers are requested but not required on this application.

Final Regulations

COMMONWEALTH OF VIRGINIA - DEPARTMENT OF PROFESSIONAL AND OCCUPATIONAL REGULATION
BOARD FOR CONTRACTORS

EXPERIENCE REFERENCE FORM

GUIDELINES: The information provided on this form is of a strictly confidential nature and becomes the property of the Board for Contractors. It will be used solely in appraising the eligibility of the applicant.

INSTRUCTIONS FOR SECTION A: Applicant, please complete Section A of this form, then have a past client, former employer, contractor, engineer, architect, building official or other source who is familiar with the work of your firm's qualified individual(s) complete Section B of this form and return to your firm directly. Once completed, attach this form to the accompanying application. Copies of this form are not accepted. Please print or type where applicable. (Letters of reference may not be substituted for this form.)

A. CONTRACTOR: Please provide the following information and authorization:

1. Name In Which Contractor/Firm Will Conduct Business: _____
2. Type Of License (Check one only): Class "A" License: Class "B" License:
3. Mailing Address (Include Zip Code): _____
4. Telephone Numbers(s): () _____ () _____
5. Classifications/Services Sought For Licensure: _____
6. Name Of Qualified Individual(s) For Each Classification/Service Listed In Item 5.

7. Authorization (Complete the following statement):

I, _____ serving as the above listed firm's Sole Proprietor, (Print Name)
General Partner, Managing Partner, Association Member or Corporate Officer, hereby authorize _____ to furnish the following information. (Print Name of Experience Reference Source)
_____ (Signature of Sole Proprietor, Partner, Assoc. Member or Corporate Officer)
Date: _____

INSTRUCTIONS FOR SECTION B: Experience reference source, please complete Section B of this form to the best of your ability for the applicant firm/contractor identified above, then return this form to the applicant.

B. EXPERIENCE REFERENCE: Please complete the remainder of this form. Print or type where applicable.

1. Name Of Person Providing Reference: _____
2. Address Of Person Providing Reference: _____
3. Telephone Number Of The Person Providing The Reference: () _____ PM AM
4. Describe The Type Of Work Performed By The Qualified Individual(s) With Which You Are Familiar (Note: If possible, your description should correspond to the classifications/services in Section A, Item 5.):

5. Has The Work Performed By The Qualified Individual(s), As Described, Been Satisfactory? Yes No
6. Signature Of Reference: _____ Date: _____

SBC:0(07-01-92)

EXPERIENCE REFERENCE

COMMONWEALTH OF VIRGINIA - DEPARTMENT OF PROFESSIONAL AND OCCUPATIONAL REGULATION
BOARD FOR CONTRACTORS

"PLUMBING"

The Board for Contractors requires each licensed contractor to have a qualified individual for each classification or service printed on the firm's license.

A qualified individual is the firm's sole proprietor, general partner, managing partner, associate member, corporate officer or someone at least in the full-time employ of the contracting firm who has demonstrated the necessary experience in the applicable classification or service. Pursuant to the current Regulations of the Board for Contractors, in order to qualify as a contracting firm in a classification or service, the firm must have a qualified individual for each classification or service. The firm must also have at least 3 years experience in those same classifications and services. However, the Board provides that qualified individuals meet additional experience requirements for some classifications and services.

Therefore, to obtain or maintain certain classifications and services, the Board for Contractors requires contracting firms to have a qualified individual that has successfully fulfilled the additional experience requirements found in each of the following applicable classifications and services:

ELECTRICAL CONTRACTORS CLASSIFICATION - In addition to the years experience requirement, a qualified individual in the Electrical Classification must have successfully completed an examination approved by the Board for Contractors and been deemed to have fulfilled that examination requirement. Presently, the Board for Contractors has approved the Master Electrician's exam administered through the Department of Housing and Community Development's Tradesman Certification Program. If your firm's qualified individual has a Master Electrician's Card issued through the Department of Housing and Community Development's Tradesman Certification Program, whether by examination, reciprocity or exemption, he/she may serve as a qualified individual in Virginia (see the testing agent list accompanying this information sheet). The Board further recognizes qualified individuals, in the Electrical Classification, who have successfully completed the electrical exam formally administered by the Department of Professional and Occupational Regulation or those who hold an active electrical contracting license issued by the North Carolina State Board of Examiners and Engineers. The Board also recognizes qualified individuals who have not obtained such license through any other reciprocal agreement. Finally, the Board also recognizes qualified individuals who have been "waived" or "grandfathered" into the Electrical Classification, although such recognition limits a qualified individual to only representing the contracting firm for which a "waiver" was granted or a "grandfather" was applied.

Notes: A qualified individual for a firm going through the Class B Registration to License Application process may meet the current entry requirements or be "grandfathered" by having 3 Experience Reference Forms successfully completed for the Electrical Classification, based on his/her experience.

PLUMBING CONTRACTORS CLASSIFICATION - In addition to the years experience requirement, a qualified individual in the Plumbing Classification must have successfully completed an examination approved by the Board for Contractors and been deemed to have fulfilled that examination requirement. Presently, the Board for Contractors has approved the Master Plumber's exam administered by the Department of Housing and Community Development's Tradesman Certification Program. If your firm's qualified individual has a Master Plumber's Card issued through the Department of Housing and Community Development's Tradesman Certification Program, whether by examination, reciprocity or exemption, he/she may serve as a qualified individual in Virginia (see the testing agent list accompanying this information sheet). The Board further recognizes qualified individuals who have successfully completed the plumbing exam formally administered by the Department of Professional and Occupational Regulation or those who have successfully completed the plumbing exam administered by the North Carolina State Board of Examiners and Engineers. The Board also recognizes qualified individuals who have not obtained such license through any other reciprocal agreement. Finally, the Board also recognizes qualified individuals who have been "waived" or "grandfathered" into the Plumbing Classification, although such recognition limits a qualified individual to only representing the contracting firm for which a "waiver" was granted or a "grandfather" was applied.

Notes: A qualified individual for a firm going through the Class B Registration to License Application process may meet the current entry requirements or be "grandfathered" by having 3 Experience Reference Forms successfully completed for the Plumbing Classification, based on his/her experience.

HVAC CONTRACTORS CLASSIFICATION - In addition to the years experience requirement, a qualified individual in the HVAC Classification must have successfully completed an examination approved by the Board for Contractors and been deemed to have fulfilled that examination requirement. Presently, the Board for Contractors has approved the Master Building-Related Mechanical exam administered by the Department of Housing and Community Development's Tradesman Certification Program. If your firm's qualified individual has a Master Building-Related Mechanical Card issued through the Department of Housing and Community Development's Tradesman Certification Program, whether by examination, reciprocity or exemption, he/she may serve as a qualified individual in Virginia (see the testing agent list accompanying this information sheet). The Board further recognizes qualified individuals who have successfully completed the HVAC exam formally administered by the Department of Professional and Occupational Regulation or those who hold an active HVAC contracting license issued by the North Carolina State Board of Examiners and Engineers. The Board also recognizes qualified individuals who have not obtained such license through any other reciprocal agreement. Finally, the Board also recognizes qualified individuals who have been "waived" or "grandfathered" into the HVAC Classification, although such recognition limits a qualified individual to only representing the contracting firm for which a "waiver" was granted or a "grandfather" was applied.

COMPLIANCE (07-01-92)

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Board also recognizes qualified individuals who have been "waived" or "grandfathered" into the HVAC Classification, although such recognition limits a qualified individual to only representing the contracting firm for which a "waiver" was granted or a "grandfather" was applied.

Notes: A qualified individual for a firm going through the Class B Registration to License Application process may meet the current entry requirements or be "grandfathered" by having 3 Experience Reference Forms successfully completed for the HVAC Classification, based on his/her experience.

ASBESTOS CONTRACTING SERVICE - There are no additional experience requirements set forth by the Board for Contractors. However, once licensed in the Asbestos service, the Asbestos Contracting firm may not engage in any Asbestos Contracting activities unless that firm has also obtained a separate Asbestos Contractors License or PIS Contractors License issued by the Director of the Department of Professional and Occupational Regulation. For more information on the separate Asbestos Contractors License or PIS Contractors License, telephone 804-367-8939 or 804-367-2176.

BLAST/EXPLOSIVE CONTRACTING SERVICE - In addition to the years experience requirement, a qualified individual in the Blast/Explosive service must have successfully qualified the firm for the Highway/Heavy Class B Registration to License Application process. The firm must have successfully completed an examination approved by the Board for Contractors and been deemed to have fulfilled that examination requirement. Presently, the Board for Contractors has approved the Blaster Certification exam administered through the Department of Housing and Community Development's Tradesman Certification Program. If your firm's qualified individual has a current Blaster Certification or Temporary Blaster Certification issued through the Department of Housing and Community Development's Tradesman Certification Program, whether by examination, reciprocity or exemption, he/she may serve as a qualified individual in Virginia (see the testing agent list accompanying this information sheet). The Board also recognizes qualified individuals who have been "waived" or "grandfathered" into the Blast/Explosive service, although such recognition limits a qualified individual to only representing the contracting firm for which a "waiver" was granted or a "grandfather" was applied.

Notes: A qualified individual for a firm going through the Class B Registration to License Application process may meet the current entry requirements or be "grandfathered" by first serving as a qualified individual in the Highway/Heavy Classification and then having 3 Experience Reference Forms successfully completed for the Blast/Explosive service, based on his/her experience.

GAS FITTING CONTRACTING SERVICE - In addition to the years experience requirement, a qualified individual in the Gas Fitting service must have successfully qualified the firm for the Plumbing or HVAC Classification and successfully completed an examination approved by the Board for Contractors or been deemed to have fulfilled that examination requirement. Presently, the Board for Contractors has approved the Gas Fitting exam administered by the Department of Housing and Community Development's Tradesman Certification Program. If your firm's qualified individual has a Gas Fitting designation on a Related Mechanical Card or a Master Gas Fitting Card issued through the Department of Housing and Community Development's Tradesman Certification Program, whether by examination, reciprocity or exemption, he/she may serve as a qualified individual for this specialty service. To obtain the Gas Fitting designation on a Related Mechanical Card or a Master Gas Fitting Card, the qualified individual must complete the exam administered by the testing agent list accompanying this information sheet. The Board further recognizes qualified individuals, in the Gas Fitting service, who have successfully qualified the firm for a Plumbing or HVAC Classification and who have successfully completed the Plumbing or HVAC exam formally administered by the Department of Professional and Occupational Regulation and those who have successfully completed the Gas Fitting exam administered by the Department of Housing and Community Development's Tradesman Certification Program. The Board also recognizes qualified individuals who have been "waived" or "grandfathered" into the Gas Fitting service, although such recognition limits a qualified individual to only representing the contracting firm for which a "waiver" was granted or a "grandfather" was applied.

Notes: A qualified individual for a firm going through the Class B Registration to License Application process may meet the current entry requirements or be "grandfathered" by first serving as a qualified individual in the Plumbing or HVAC Classification and then having 3 Experience Reference Forms successfully completed for the Gas Fitting service, based on his/her experience.

PAVING/PAVING CONTRACTING SERVICE - In addition to the years experience requirement, a qualified individual in the Paving/Gravel Service must have successfully qualified the firm for the Paving/Gravel Classification or Commercial, Farm or Home Improvement service and be listed as a contractor on the U.S. Environmental Protection Agency's National Disposal and Protocol contact the Virginia Department of Health Hall 1100 in Virginia 1120-640-0138 or 804-120-3532.

WATER WELL CONTRACTING SERVICE - In addition to the years experience requirement, a qualified individual in the Water Well service must have successfully completed the national exam administered by the International Water Well Association (IWMA) General Exam. To schedule a registration in the Water Well Classification, contact the Department of Professional and Occupational Regulation at 804-367-8939 or 804-367-2176. The Board also recognizes qualified individuals who have not obtained such license through any other reciprocal agreement. Finally, the Board also recognizes qualified individuals who have been "waived" or "grandfathered" into the Water Well service, although such recognition limits a qualified individual to only representing the contracting firm for which a "waiver" was granted or a "grandfather" was applied.

Notes: A qualified individual for a firm going through the Class B Registration to License Application process may meet the current entry requirements or be "grandfathered" by successfully completing 3 Experience Reference Forms for the Water Well Contracting service.

COMPLIANCE (07-01-92)

914K SHEET

Tradesmen Certification Program
List of participating localities and testing agent (s)

LOCALITY	FIP #	TESTING AGENT	PHONE #				
Acomack, County	001	C. M. Powell	(804) 787-5721	King William, County	101	D. Wills	(804) 769-4934
Alexandria, City	510	P. Radauskas	(703) 838-4360	Lancaster, County	103	M. Grigsby	(804) 462-5480
		S. Dilawari	(703) 838-4360	Lexington, City	678	W. Blatter	(703) 463-7134
Altavista, Town	303	R. Jackson	(804) 369-5002	Loudoun, County	107	S. Rodgers	(703) 777-0220
Amherst, County	009	H. Campbell	(804) 946-9302	Lynchburg, City	680	K. Johnson	(804) 847-1572
Appomattox, County	011	W. M. Caldwell, Jr.	(804) 352-8183	Martinsville, City	690	J. Baker	(703) 638-3971
Arlington, County	013	E. Rodgers	(703) 358-3800			R. Evans	(703) 638-3971
Augusta, County	015	D. W. Sensabaugh	(703) 245-5717	Middlesex, County	119	R. Reed	(804) 758-4305
Bedford, City	515	J. English	(703) 586-0159	Montgomery, County	121	E. Mannon	(703) 382-5750
Bedford, County	019	K. Stevens	(703) 596-7611	Newport News, City	700	C. Diersing, Jr.	(804) 247-8862
Blacksburg, Town	311	R. Miller	(703) 961-1125			E. Britz	(804) 247-8862
Bristol, City	520	E. W. O'Dell	(703) 466-8288			W. Beattie	(804) 247-8860
Buchanan, County	027	A. R. Adkins	(703) 935-6539	Norfolk, City	710	E. Lucas (E)	(804) 441-2725
Campbell, County	031	S. Gough	(804) 332-6161	Northampton, City	131	D. Elliott	(804) 678-5276
Charlottesville, City	540	G. Smiley	(804) 971-3310	Portsmouth, City	740	D. Harris (E)	(804) 393-8531
Chesapeake, City	550	J. Stillman (E)	(804) 547-6897			T. Lewis (M)	(804) 393-8531
		C. Hall	(804) 547-6324			W. Hewitt (P)	(804) 393-8531
		K. Whitley (P)	(804) 547-6250	Prince George, County	149	B. Poole	(804) 733-2636
		O. Phipps (M)	(804) 547-6324	Prince William, County	153	B. Archer	(703) 335-6920
Chesterfield, County	041	E. Nottingham (E)	(804) 748-1408	Radford, City	750	B. Long	(703) 731-3601
		N. Cross (M)	(804) 748-1057	Rappahannock, County	157	R. Burke	(703) 675-3598
		J. E. Burchett (P)	(804) 748-1057	Richmond, City	760	P. Murphy (E)	(804) 780-6962
		W. Dupler	(804) 748-1057			W. Priddy (P, M)	(804) 780-6981
Colonial Heights, City	570	W. Coleman	(804) 520-9298			D. Smith	(804) 780-6950
Covington, City	580	O. S. Peters	(703) 965-6370			B. Williams	(804) 780-6955
Culpeper, Town	047	D. Foster	(703) 825-0469	Roanoke, City	770	R. Miller	(703) 981-2222
Culpeper, County	350	W. Moore	(703) 825-6241	Roanoke, County	161	D. Ford	(703) 772-2065
Danville, City	590	J. Rigney	(804) 799-5263	Salem, City	775	J. Nizinger, Jr.	(703) 375-3036
		R. Phelps, Jr.	(804) 799-5263	Shenandoah, County	171	W. Golladay	(703) 459-4047
		D. Jacobson	(703) 385-7830	Southampton, County	175	T. Willett	(804) 653-2973
Fairfax, City	600	R. Hill	(703) 246-1540	South Hill, Town	455	D. Wilson	(804) 447-3191
Fairfax, County	059	R. Boswell	(703) 347-5646	Spotsylvania, County	177	D. Clabo	(703) 582-7038
Fauquier, County	061	R. Greene	(804) 392-3465	Stafford, County	179	J. Allen, Sr.	(703) 659-8650
Farmville, Town	480	R. Griffith	(703) 372-1080	Staunton, City	790	W. Botkin	(703) 885-2534
Fredericksburg, City	630	K. Barker	(703) 236-2422	Suffolk, City	800	D. Chavis	(804) 934-3111
Galax, City	640	J. Haughney	(804) 693-2744	Surry, County	181	W. Mavin	(804) 294-5210
Gloucester, County	073	C. Veliky	(804) 348-4232	Sussex, County	183	F. Owens	(804) 246-5511
Greensville, County	081	S. Shapiro	(804) 727-6120	Tazewell, County	185	R. Bailey	(703) 988-7541
Hampton, City	650	D. Barbour (E)	(804) 537-6040	Va. Beach, City	810	R. Lohrer	(804) 427-4211
Hanover, County	085	L. Thompson (E)	(804) 537-6040	Warren, County	187	N. Dertlinger	(703) 636-9973
		C. Nicholas (P, M)	(804) 537-6040	Warrenton, Town	478	R. Carroll	(703) 347-1101
		L. Lipscomb (P, M)	(804) 537-6040	Waynesboro, City	820	J. Honbarrier	(703) 942-6628
Harrisonburg, City	660	E. Baldwin	(703) 434-0757	Williamsburg, City	830	B. Brockenbrough	(804) 229-6136
		W. Lilly	(703) 434-0757	Winchester, City	069	J. Carlett	(703) 667-1815
Henrico, County	087	R. Singleton	(804) 672-4374	York, County	199	M. Harris	(804) 580-3521
		F. Castlesvechi	(804) 672-4374				
		J. Cooper (P, M)	(804) 672-4374	For Assistance Call:			
		W. J. Williams	(804) 672-4374	Training and Certification	761	D. Alterescu	(804) 371-7182
		L. Cullingsworth	(804) 672-4374	Vz. Apprenticeship Program	762	R. Baumgardner	(804) 786-3259
		C. Harris	(804) 672-4374				
		G. Revels	(804) 672-4374				
Hopewell, City	670	J. Arsu	(804) 672-4374	(E) Electrical only			
Isle of Wight	093	A. Berkley	(804) 672-4374	(M) Mechanical only			
James City, County	095	J. Withamson	(804) 253-6626	(P) Plumbing only			

Revised 10-27-92 C:Titst

COMMONWEALTH OF VIRGINIA
DEPARTMENT OF PROFESSIONAL AND OCCUPATIONAL REGULATIONS
BOARD FOR CONTRACTORS

CONTRACTORS LICENSING STAFF CERTIFICATE OF TERMINATION FORM

TERMINATION STATEMENT: Please complete the following statement by printing the applicable information in the blank spaces:

I, _____,

a member of the contractors licensing section hereby certify that

_____ has reported in
(Name of licensed/registered firm)

a signed statement, letter or note from its sole proprietor or general partner, managing partner, association member or president or vice-president of the corporation that it has ceased operations as a contracting business in the Commonwealth of Virginia. Accordingly, I am terminating the contractors license/certification,

No. _____, as of _____
(License/Certifi. No.) (Date terminated)

Signed: _____ Date: _____
(Signature of Licensing Staff Member) (Date Signed)

* Attach to this form a copy of the signed statement, letter or note, from the contractor, which requests that the above referenced license be terminated, etc.

Final Regulations

DEPARTMENT OF THE STATE INTERNAL AUDITOR

EDITOR'S NOTICE: The following regulations are excluded from Article 2 of the Administrative Process Act in accordance with § 9-6.14:4.1 C 2 of the Code of Virginia, which excludes regulations that establish or prescribe agency organization, internal practice or procedures, including delegations of authority.

Title of Regulation: VR 412-01-01. Policies, Standards, and Procedures for Agency and Institutional Internal Auditors (Directive No. 1-85).

Statutory Authority: § 2.1-234.32 of the Code of Virginia.

Effective Date: May 15, 1993.

Summary:

This directive is to ensure that internal auditors establish and follow generally accepted auditing standards in the conduct of their work.

VR 412-01-01. Policies, Standards, and Procedures for Agency and Institutional Internal Auditors (Directive No. 1-85).

§ 1. Applicability.

This directive applies to all state agencies and institutions with an internal audit function.

§ 2. Policy.

All state agencies and institutions with internal audit functions shall adopt and prescribe to the "Standards for the Professional Practice of Internal Auditing" and "Statements on Internal Auditing Standards" promulgated by the Institute of Internal Auditors. This policy is not intended to restrict internal auditors from adopting additional standards from other authoritative bodies, such as the Comptroller General of the United States or the American Institute of Certified Public Accountants, as appropriate.

When developing agency or institutional policies and procedures to meet the standards included in this regulation, agency and institutional internal auditors will be expected to follow the guidance provided in the State Internal Auditor's Internal Audit Policies and Procedures Manual.

§ 3. Exceptions.

If an agency or institution believes that adherence to the policy set forth in § 2 will create an undue hardship, an agency head may request that the State Internal Auditor amend or modify the requirements. Such requests should be in writing and include reasons for the request and the exact nature of the proposed modification. The State Internal Auditor will provide written response to the

agency or institutional head.

§ 4. Assistance.

Requests for assistance in complying with this regulation should be forwarded to the State Internal Auditor, James Monroe Building, 101 North 14th Street, Richmond, Virginia 23219.

V.A.R. Doc. No. R95-277; Filed April 15, 1993, 10:07 a.m.

* * * * *

Title of Regulation: VR 412-01-02. External Review Follow-Up for Agency and Institutional Internal Auditors (Directive No. 1-90).

Statutory Authority: § 2.1-234.32 of the Code of Virginia.

Effective Date: May 15, 1993.

Summary:

This directive is to ensure that significant deficiencies noted in external quality assurance review reports of state agency and institutional internal auditing programs are effectively addressed in a timely fashion.

VR 412-01-02. External Review Follow-Up for Agency and Institutional Internal Auditors (Directive No. 1-90).

§ 1. Applicability.

This directive applies to all state agencies and institutions with an internal audit function.

§ 2. Policy.

All state agencies and institutions (herein agency) with internal auditing functions shall submit detailed work plans and semiannual progress reports to the Department of the State Internal Auditor (herein DSIA) regarding significant deficiencies noted in external quality assurance review reports. The deficiencies considered significant will be identified as such by DSIA in a letter to the agency head at the completion of the external quality assurance review.

The detailed agency work plans shall include columns which contain: (i) summaries of significant external quality assurance review concerns; (ii) summaries of proposed corrective actions and specific deliverables or tangible products that will result from the proposed corrective actions; (iii) target completion dates of the proposed corrective actions; and (iv) the name of the person(s) or position(s) responsible and accountable for implementing such corrective actions. The detailed work plans should be submitted to DSIA no later than 60 days after the issuance of the external quality assurance review report.

The semiannual progress reports shall provide information regarding the status of the agency specific

detailed work plans established to correct significant deficiencies noted during the external quality assurance review process. These reports should be submitted to DSIA six months after the issuance of the external quality assurance report and updated every six months until all the significant deficiencies are resolved.

Semiannual summary reports shall be provided by DSIA to the Governor, the Governor's Secretaries, agency heads, the State Comptroller, and the Director of the Department of Planning and Budget. These semiannual summary reports will highlight actions taken to address and resolve significant external quality assurance review concerns and identify those concerns that remain unresolved by agencies. These reports will be prepared from the detailed work plans and semiannual progress reports submitted to DSIA by agencies or as a result of subsequent follow-up reviews conducted by DSIA.

§ 3. Exceptions.

If an agency or institution believes that adherence to the policy set forth in § 2 will create an undue hardship, an agency head may request that the State Internal Auditor amend or modify the requirements. Such requests should be in writing and include reasons for the request and the exact nature of the proposed modification. The State Internal Auditor will provide written response to the agency head.

§ 4. Assistance.

Requests for assistance in complying with this regulation should be forwarded to the State Internal Auditor, James Monroe Building, 101 North 14th Street, Richmond, Virginia 23219.

V.A.R. Doc. No. R95-278; Filed April 15, 1993, 10:07 a.m.

DEPARTMENT OF LABOR AND INDUSTRY

Safety and Health Codes Board

REGISTRAR'S NOTICE: The following regulations are exempt from the Administrative Process Act in accordance with § 9-6.14:4.1 C 4 (c) of the Code of Virginia, which excludes regulations that are necessary to meet the requirements of federal law or regulations, provided such regulations do not differ materially from those required by federal law or regulation. The Safety and Health Codes Board will receive, consider and respond to petitions by any interested person at any time with respect to reconsideration or revision.

Title of Regulation: VR 425-02-37. Grain Handling Facilities Standard, General Industry (1910.272).

Statutory Authority: § 40.1-22(5) of the Code of Virginia.

Effective Date: April 1, 1995.

Summary:

The implementation of the Virginia unique Confined Space Standard, § 1910.146, had an impact on the Grain Handling Facilities Standard. The Virginia Confined Space Standard was adopted on March 23, 1987, by the Safety and Health Codes Board under the full notice and comment procedures provided by the Administrative Process Act. The start-up date for enforcement of § 1910.146 was January 1, 1988.

On December 31, 1987, federal OSHA published a final rule on the Grain Handling Facilities Standard (52 Fed. Reg. 49624). Among other things, this final rule contained minimum requirements for the control of fires, grain dust explosions and other safety hazards associated with grain handling facilities.

On March 7, 1988, the Safety and Health Codes Board adopted the Grain Handling Facilities Standard. During the same hearing, the board amended § 1910.272(f)(2) of this standard to add a reference to § 1910.146.8.D. of the Virginia Confined Space Standard, which dealt with the proper use of cylinders of compressed gases and open-end fuel gas and oxygen hoses with respect to enclosed spaces.

In adopting the federal-identical Permit-Required Confined Spaces Standard in 1993, the board deleted the applicability of the Virginia standard to general industry, thereby, restricting its application to the construction industry. As such, the need to reference Virginia's unique confined space standard in the Grain Handling Facilities regulation, VR 425-02-37, no longer exists.

The current Virginia unique standard, Grain Handling Facilities ("Grain Handling"), § 1910.272 (VR 425-02-37), was amended to remove the reference to § 1910.146.8.D. of the Virginia unique Confined Space Standard for General Industry which no longer exists. The effect of removing the reference to § 1910.146.8.D. makes the Grain Handling regulations identical to the federal version of the Grain Handling standard.

Note on Incorporation By Reference

Pursuant to § 9-6.18 of the Code of Virginia, the Grain Handling Facilities Standard (1910.272) is declared a document generally available to the public and appropriate for incorporation by reference. For this reason the entire document will not be printed in The Virginia Register of Regulations. Copies of the document are available for inspection at the Department of Labor and Industry, 13 South 13th Street, Richmond, Virginia, and in the Office of the Registrar of Regulations, General Assembly Building, Capitol Square, Room 262, Richmond, Virginia.

On December 19, 1994, the Safety and Health Codes Board deleted the reference to § 1910.146.8.D of the former Virginia unique Confined Space Standard for General Industry in the Grain Handling regulations. This change made the Grain Handling Facilities Standard, VR 425-02-37, identical to the federal version of the standard, as

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published in the Federal Register, Vol. 52, No. 251, pp. 49625-49631, Thursday, December 31, 1987. The amendments as adopted are set out below:

(f) (2) The permit shall certify that the requirements contained in §§ 1910.252(d) and 1910.146.8.D have been implemented prior to beginning the hot work operations. The permit shall be kept on file until completion of the hot work operations.

When the regulations as set forth in the Grain Handling Facilities Standard, § 1910.272, are applied to the Commissioner of the Department of Labor and Industry or to Virginia employers, the following terms shall be considered to read as shown below:

Federal Terms	VOSH Equivalent
29 CFR Assistant Secretary	VOSH Standard Commissioner of Labor and Industry
Agency March 30, 1988	Department April 1, 1995

V.A.R. Doc. No. R95-255; Filed January 20, 1995, 12:04 p.m.



COMMONWEALTH of VIRGINIA

JOAN W. SMITH
REGISTRAR OF REGULATIONS

VIRGINIA CODE COMMISSION
General Assembly Building

110 CAPITOL STREET
RICHMOND, VIRGINIA 23219
(804) 786-3591

February 6, 1995

Mr. Charles B. Ashby, Chairman
Virginia Safety and Health Codes Board
C/o The Department of Labor and Industry
13 South Thirteenth Street
Richmond, Virginia 23219

ATTN: John J. Crisanti, Director
Office of Enforcement Policy

RE: VR 425-02-37 Grain Handling Facilities Standard
General Industry, Section 1910.272

Dear Mr. Ashby:

This will acknowledge receipt of the above-referenced regulations from the Department of Labor and Industry.

As required by § 9-6.14:4.1 C.4.(c), of the Code of Virginia, I have determined that these regulations are exempt from the operation of Article 2 of the Administrative Process Act, since they do not differ materially from those required by federal law.

Sincerely,

A handwritten signature in cursive script, appearing to read "Joan W. Smith".

Joan W. Smith
Registrar of Regulations

JWS:jbc

Final Regulations

* * * * *

Title of Regulation: VR 425-02-50. Welding, Cutting and Brazing Standard, General Industry (1910.251 - 1910.255) (REPEALED).

Statutory Authority: § 40.1-22(5) of the Code of Virginia.

Effective Date: April 1, 1995.

Summary:

The current Virginia unique standard, Welding, Cutting and Brazing, §§ 1910.251 through 1910.255, is being repealed because of the numerous references to the Virginia unique Confined Space Standard which no longer exists for the general industry. The federal Welding, Cutting and Brazing Standard (55 Fed. Reg. 13694) was readopted, making the Virginia Welding, Cutting and Brazing regulation identical to the federal version.

V.A.R. Doc. No. R95-256; Filed January 20, 1995, 12:05 p.m.

* * * * *

Title of Regulation: VR 425-02-50:1. Welding, Cutting and Brazing Standard, General Industry (1910.251 - 1910.255).

Statutory Authority: § 40.1-22(5) of the Code of Virginia.

Effective Date: April 1, 1995.

Summary:

The current Virginia unique standard, Welding, Cutting and Brazing, §§ 1910.251 through 1910.255, is being repealed because of the numerous references to the Virginia unique Confined Space Standard which no longer exists for the general industry. The federal Welding, Cutting and Brazing Standard (55 Fed. Reg. 13694) was readopted, making the Virginia Welding, Cutting and Brazing regulation identical to the federal version.

Note on Incorporation By Reference

Pursuant to § 9-6.18 of the Code of Virginia, the Welding, Cutting and Brazing Standard for the General Industry (§§ 1910.251 - 1910.255) is declared a document generally available to the public and appropriate for incorporation by reference. For this reason the entire document will not be printed in The Virginia Register of Regulations. Copies of the document are available for inspection at the Department of Labor and Industry, 13 South 13th Street, Richmond, Virginia, and in the Office of the Registrar of Regulations, General Assembly Building, Capitol Square, Room 262, Richmond, Virginia.

On December 19, 1994, the Safety and Health Codes Board readopted the federal Welding, Cutting and Brazing Standard as published in the Federal Register, Vol. 55, No. 70, Wednesday, April 11, 1990, so that the Virginia and federal standards are identical. The existing Virginia unique Welding, Cutting and Brazing Standard (VR 425-02-50), with numerous references to the former Virginia unique Confined Space Standard, is being

repealed.

When the regulations as set forth in the Welding, Cutting and Brazing Standard, General Industry, §§ 1910.251 through 1910.252, are applied to the Commissioner of the Department of Labor and Industry or to Virginia employers, the following terms shall be considered to read as shown below:

Federal Terms	VOSH Equivalent
29 CFR Assistant Secretary	VOSH Standard Commissioner of Labor and Industry Department
Agency May 11, 1990	April 1, 1995

V.A.R. Doc. No. R95-257; Filed January 20, 1995, 12:05 p.m.



COMMONWEALTH of VIRGINIA

JOAN W. SMITH
REGISTRAR OF REGULATIONS

VIRGINIA CODE COMMISSION
General Assembly Building

500 CAPITOL STREET
RICHMOND, VIRGINIA 23219
(804) 786-3591

February 6, 1995

Mr. Charles B. Ashby, Chairman
Virginia Safety and Health Codes Board
C/o The Department of Labor and Industry
13 South Thirteenth Street
Richmond, Virginia 23219

ATTN: John J. Crisanti, Director
Office of Enforcement Policy

RE: VR 425-02-50.1 Welding, Cutting and Brazing Standard
General Industry, Sec. 1910.251 - 1910.255

Dear Mr. Ashby:

This will acknowledge receipt of the above-referenced regulations from the Department of Labor and Industry.

As required by § 9-6.14:4.1 C.4.(c), of the Code of Virginia, I have determined that these regulations are exempt from the operation of Article 2 of the Administrative Process Act, since they do not differ materially from those required by federal law.

Sincerely,

A handwritten signature in cursive script, appearing to read "Joan W. Smith".

Joan W. Smith
Registrar of Regulations

JWS:ELC

Final Regulations

DEPARTMENT OF MEDICAL ASSISTANCE SERVICES (BOARD OF)

Title of Regulation: State Plan for Medical Assistance Relating to State Agency Fee Schedule – Resource Based Relative Value Scale (RBRVS).

VR 460-02-4.1920. Methods and Standards for Establishing Payment Rates – Other Types of Care.

VR 460-03-4.1921. Fees for Pediatric and Obstetric CPT Procedures.

VR 460-03-4.1924. State Agency Fee Schedule.

Statutory Authority: § 32.1-324 of the Code of Virginia.

Effective Date: July 1, 1995.

Summary:

This regulation implements a new medical and surgical fee schedule for the agency which is based on the federal RBRVS. The Program reimburses fee-for-service providers the lower of the state agency fee schedule or their actual charge to the general public. The agency fee schedule currently in use was updated in both 1990 and 1991 pursuant to Appropriations Acts of the General Assembly. Since then, the fee schedule has been based on a percentile of provider charges using charge data from an earlier period. At present, obstetric and certain pediatric fees are published annually as required by federal law. Chapter 965 of the Acts of Assembly, item 313.W directs the Board of Medical Assistance Services to develop a RBRVS-based physician fee schedule for approval by the HCFA. RBRVS-based reimbursement links the fee for a service to research-based estimates of the resources necessary to provide that service.

Prior to January 1, 1992, HCFA also used a fee schedule based on provider charges to reimburse physicians for their services rendered to Medicare beneficiaries. However, HCFA concluded that the fees it paid for services did not have a consistent, rational relationship to the actual resources utilized to provide those services. Therefore, HCFA developed a RBRVS-based fee schedule. HCFA assigned a "relative value" to each service expressed in relative value units (RVUs). HCFA computes the fee for a service by multiplying its RVUs times one of three conversion factors (CFs) which it developed for different types of services.

The Department of Medical Assistance Services (DMAS) is adopting HCFA's RVUs for its RBRVS-based fee schedule. DMAS will use HCFA's CFs after they have been adjusted by an additional factor to maintain budget neutrality. DMAS may revise the additional factor whenever HCFA updates its RVUs or CFs so that no change in expenditure will result solely from such update. DMAS will estimate RBRVS-type fees for services that have no HCFA RVUs and use existing fees for services for which it

is unable to estimate a RBRVS-type fee. The RBRVS-based fees will be effective July 1, 1995, and will be phased in over a three-year period. There will be one fee schedule for the entire state with no geographic adjusters.

Implementation of the RBRVS-based fee schedule will affect each provider differently depending on the types of services provided since the allowable fee will increase for some services and decrease for others. Each provider will be affected differently based on the types of services he performs since the allowable fee will be raised for some services and lowered for others. Provided there are no changes in the types of services provided as a result of the new fee schedule, there should be no impact on Medicaid recipients and the implementation of the new fee schedule should be budget neutral. DMAS expects to expend \$267 million (\$133.5 million GF) in FY '95 and \$284 million (\$142 million GF) in FY '96 on physician and physician-related Medicaid services. These expenditures are funded in the current appropriation. This regulatory action is not intended to change these expenditure figures. There are no localities which are uniquely affected by these regulations as they apply statewide.

Summary of Public Comment and Agency Response: A summary of comments made by the public and the agency's response may be obtained from the promulgating agency or viewed at the office of the Registrar of Regulations.

Agency Contact: Copies of the regulation may be obtained from Victoria P. Simmons, Regulatory Coordinator, Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Richmond, VA 23219, telephone (804) 786-7933. There may be a charge for copies.

VR 460-02-4.1920. Methods and Standards Used for Establishing Payment Rates—Other Types of Care.

§ 1. General.

The policy and the method to be used in establishing payment rates for each type of care or service (other than inpatient hospitalization, skilled nursing and intermediate care facilities) listed in § 1905(a) of the Social Security Act and included in this State Plan for Medical Assistance are described in the following paragraphs:

1. Reimbursement and payment criteria will be established which are designed to enlist participation of a sufficient number of providers of services in the program so that eligible persons can receive the medical care and services included in the Plan at least to the extent these are available to the general population.
2. Participation in the program will be limited to

providers of services who accept, as payment in full, the state's payment plus any copayment required under the State Plan.

3. Payment for care or service will not exceed the amounts indicated to be reimbursed in accord with the policy and methods described in this Plan and payments will not be made in excess of the upper limits described in 42 CFR 447.304(a). The state agency has continuing access to data identifying the maximum charges allowed; such data will be made available to the Secretary, HHS, upon request.

§ 2. Services which are reimbursed on a cost basis.

A. Payments for services listed below shall be on the basis of reasonable cost following the standards and principles applicable to the Title XVIII Program. The upper limit for reimbursement shall be no higher than payments for Medicare patients on a facility by facility basis in accordance with 42 CFR 447.321 and 42 CFR 447.325. In no instance, however, shall charges for beneficiaries of the program be in excess of charges for private patients receiving services from the provider. The professional component for emergency room physicians shall continue to be uncovered as a component of the payment to the facility.

B. Reasonable costs will be determined from the filing of a uniform cost report by participating providers. The cost reports are due not later than 90 days after the provider's fiscal year end. If a complete cost report is not received within 90 days after the end of the provider's fiscal year, the Program shall take action in accordance with its policies to assure that an overpayment is not being made. The cost report will be judged complete when DMAS has all of the following:

1. Completed cost reporting form(s) provided by DMAS, with signed certification(s);
2. The provider's trial balance showing adjusting journal entries;
3. The provider's financial statements including, but not limited to, a balance sheet, a statement of income and expenses, a statement of retained earnings (or fund balance), and a statement of changes in financial position;
4. Schedules which reconcile financial statements and trial balance to expenses claimed in the cost report;
5. Depreciation schedule or summary;
6. Home office cost report, if applicable; and
7. Such other analytical information or supporting documents requested by DMAS when the cost reporting forms are sent to the provider.

C. Item 398 D of the 1987 Appropriation Act (as amended), effective April 8, 1987, eliminated reimbursement of return on equity capital to proprietary providers.

D. The services that are cost reimbursed are:

1. Inpatient hospital services to persons over 65 years of age in tuberculosis and mental disease hospitals
2. Outpatient hospital services excluding laboratory.

a. Definitions. The following words and terms, when used in this regulation, shall have the following meanings when applied to emergency services unless the context clearly indicates otherwise:

"*All-inclusive*" means all emergency [~~room~~ department] and ancillary service charges claimed in association with the emergency room visit, with the exception of laboratory services.

"*DMAS*" means the Department of Medical Assistance Services consistent with Chapter 10 (§ 32.1-323 et seq.) of Title 32.1 of the Code of Virginia.

"*Emergency hospital services*" means services that are necessary to prevent the death or serious impairment of the health of the recipient. The threat to the life or health of the recipient necessitates the use of the most accessible hospital available that is equipped to furnish the services.

"*Recent injury*" means an injury which has occurred less than 72 hours prior to the emergency [~~room~~ department] visit.

b. Scope. DMAS shall differentiate, as determined by the attending physician's diagnosis, the kinds of care routinely rendered in emergency [~~rooms~~ departments] and reimburse for nonemergency care rendered in emergency [~~rooms~~ departments] at a reduced rate.

(1) With the exception of laboratory services, DMAS shall reimburse at a reduced and all-inclusive reimbursement rate for all services, including those obstetric and pediatric procedures contained in Supplement 1 to Attachment 4.19 B, rendered in emergency [~~rooms~~ departments] which DMAS determines were nonemergency care.

(2) Services determined by the attending physician to be emergencies shall be reimbursed under the existing methodologies and at the existing rates.

(3) Services performed by the attending physician which may be emergencies shall be manually reviewed. If such services meet certain criteria, they shall be paid under the methodology for (2)

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above. Services not meeting certain criteria shall be paid under the methodology of (1) above. Such criteria shall include, but not be limited to:

(a) The initial treatment following a recent obvious injury.

(b) Treatment related to an injury sustained more than 72 hours prior to the visit with the deterioration of the symptoms to the point of requiring medical treatment for stabilization.

(c) The initial treatment for medical emergencies including indications of severe chest pain, dyspnea, gastrointestinal hemorrhage, spontaneous abortion, loss of consciousness, status epilepticus, or other conditions considered life threatening.

(d) A visit in which the recipient's condition requires immediate hospital admission or the transfer to another facility for further treatment or a visit in which the recipient dies.

(e) Services provided for acute vital sign changes as specified in the provider manual.

(f) Services provided for severe pain when combined with one or more of the other guidelines.

(4) Payment shall be determined based on ICD-9-CM diagnosis codes and necessary supporting documentation.

(5) DMAS shall review on an ongoing basis the effectiveness of this program in achieving its objectives and for its effect on recipients, physicians, and hospitals. Program components may be revised subject to achieving program intent, the accuracy and effectiveness of the ICD-9-CM code designations, and the impact on recipients and providers.

3. Rural health clinic services provided by rural health clinics or other federally qualified health centers defined as eligible to receive grants under the Public Health Services Act §§ 329, 330, and 340.

4. Rehabilitation agencies

5. Comprehensive outpatient rehabilitation facilities

6. Rehabilitation hospital outpatient services.

§ 3. Fee-for-service providers.

A. Payment for the following services shall be the lower of the state agency fee schedule (*Supplement 4 has information about the state agency fee schedule*) or actual charge (charge to the general public):

1. Physicians' services (*Supplement 1 has obstetric/pediatric fees*). The following limitations shall

apply to emergency physician services.

a. Definitions. The following words and terms, when used in this regulation, shall have the following meanings when applied to emergency services unless the context clearly indicates otherwise:

"*All-inclusive*" means all emergency service and ancillary service charges claimed in association with the emergency [~~room~~ department] visit, with the exception of laboratory services.

"*DMAS*" means the Department of Medical Assistance Services consistent with Chapter 10 (§ 32.1-323 et seq.) of Title 32.1 of the Code of Virginia.

"*Emergency physician services*" means services that are necessary to prevent the death or serious impairment of the health of the recipient. The threat to the life or health of the recipient necessitates the use of the most accessible hospital available that is equipped to furnish the services.

"*Recent injury*" means an injury which has occurred less than 72 hours prior to the emergency [~~room~~ department] visit.

b. Scope. DMAS shall differentiate, as determined by the attending physician's diagnosis, the kinds of care routinely rendered in emergency [~~rooms~~ departments] and reimburse physicians for nonemergency care rendered in emergency [~~rooms~~ departments] at a reduced rate.

(1) DMAS shall reimburse at a reduced and all-inclusive reimbursement rate for all physician services, including those obstetric and pediatric procedures contained in Supplement 1 to Attachment 4.19 B, rendered in emergency [~~rooms~~ departments] which DMAS determines are nonemergency care.

(2) Services determined by the attending physician to be emergencies shall be reimbursed under the existing methodologies and at the existing rates.

(3) Services determined by the attending physician which may be emergencies shall be manually reviewed. If such services meet certain criteria, they shall be paid under the methodology for (2) above. Services not meeting certain criteria shall be paid under the methodology of (1) above. Such criteria shall include, but not be limited to:

(a) The initial treatment following a recent obvious injury.

(b) Treatment related to an injury sustained more than 72 hours prior to the visit with the deterioration of the symptoms to the point of requiring medical treatment for stabilization.

(c) The initial treatment for medical emergencies including indications of severe chest pain, dyspnea, gastrointestinal hemorrhage, spontaneous abortion, loss of consciousness, status epilepticus, or other conditions considered life threatening.

(d) A visit in which the recipient's condition requires immediate hospital admission or the transfer to another facility for further treatment or a visit in which the recipient dies.

(e) Services provided for acute vital sign changes as specified in the provider manual.

(f) Services provided for severe pain when combined with one or more of the other guidelines.

(4) Payment shall be determined based on ICD-9-CM diagnosis codes and necessary supporting documentation.

(5) DMAS shall review on an ongoing basis the effectiveness of this program in achieving its objectives and for its effect on recipients, physicians, and hospitals. Program components may be revised subject to achieving program intent objectives, the accuracy and effectiveness of the ICD-9-CM code designations, and the impact on recipients and providers.

2. Dentists' services

3. Mental health services including:

Community mental health services

Services of a licensed clinical psychologist

Mental health services provided by a physician

4. Podiatry

5. Nurse-midwife services

6. Durable medical equipment

7. Local health services

8. Laboratory services (Other than inpatient hospital)

9. Payments to physicians who handle laboratory specimens, but do not perform laboratory analysis (limited to payment for handling)

10. X-Ray services

11. Optometry services

12. Medical supplies and equipment.

13. Home health services. Effective June 30, 1991, cost

reimbursement for home health services is eliminated. A rate per visit by discipline shall be established as set forth by Supplement 3.

B. Hospice services payments must be no lower than the amounts using the same methodology used under Part A of Title XVIII, and adjusted to disregard offsets attributable to Medicare coinsurance amounts.

C. Payment for pharmacy services shall be the lowest of items 1 through 5 (except that items 1 and 2 will not apply when prescriptions are certified as brand necessary by the prescribing physician in accordance with the procedures set forth in 42 CFR 447.331 (c) if the brand cost is greater than the HCFA upper limit of VMAC cost) subject to the conditions, where applicable, set forth in items 6 and 7 below:

1. The upper limit established by the Health Care Financing Administration (HCFA) for multiple source drugs pursuant to 42 CFR §§ 447.331 and 447.332, as determined by the HCFA Upper Limit List plus a dispensing fee. If the agency provides payment for any drugs on the HCFA Upper Limit List, the payment shall be subject to the aggregate upper limit payment test.

2. The Virginia Maximum Allowable Cost (VMAC) established by the agency plus a dispensing fee, if a legend drug, for multiple source drugs listed on the VVF.

3. The Estimated Acquisition Cost (EAC) which shall be based on the published Average Wholesale Price (AWP) minus a percent discount established by the methodology set out in a through c below. (Pursuant to OBRA 90 § 4401, from January 1, 1991, through December 31, 1994, no changes in reimbursement limits or dispensing fees shall be made which reduce such limits or fees for covered outpatient drugs).

a. Percent discount shall be determined by a statewide survey of providers' acquisition cost.

b. The survey shall reflect statistical analysis of actual provider purchase invoices.

c. The agency will conduct surveys at intervals deemed necessary by DMAS, but no less frequently than triennially.

4. A mark-up allowance (150%) of the Estimated Acquisition Cost (EAC) for covered nonlegend drugs and oral contraceptives.

5. The provider's usual and customary charge to the public, as identified by the claim charge.

6. Payment for pharmacy services will be as described above; however, payment for legend drugs will include the allowed cost of the drug plus only one

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dispensing fee per month for each specific drug. However, oral contraceptives shall not be subject to the one month dispensing rule. Exceptions to the monthly dispensing fees shall be allowed for drugs determined by the department to have unique dispensing requirements.

7. The Program recognizes the unit dose delivery system of dispensing drugs only for patients residing in nursing facilities. Reimbursements are based on the allowed payments described above plus the unit dose add-on fee and an allowance for the cost of unit dose packaging established by the state agency. The maximum allowed drug cost for specific multiple source drugs will be the lesser of: either the VMAC based on the 60th percentile cost level identified by the state agency or HCFA's upper limits. All other drugs will be reimbursed at drug costs not to exceed the estimated acquisition cost determined by the state agency.

8. Determination of EAC was the result of an analysis of FY'89 paid claims data of ingredient cost used to develop a matrix of cost using 0 to 10% reductions from AWP as well as discussions with pharmacy providers. As a result of this analysis, AWP minus 9.0% was determined to represent prices currently paid by providers effective October 1, 1990.

The same methodology used to determine AWP minus 9.0% was utilized to determine a dispensing fee of \$4.40 per prescription as of October 1, 1990. A periodic review of dispensing fee using Employment Cost Index - wages and salaries, professional and technical workers will be done with changes made in dispensing fee when appropriate. As of October 1, 1990, the Estimated Acquisition Cost will be AWP minus 9.0% and dispensing fee will be \$4.40.

D. All reasonable measures will be taken to ascertain the legal liability of third parties to pay for authorized care and services provided to eligible recipients including those measures specified under 42 USC 1396(a)(25).

E. The single state agency will take whatever measures are necessary to assure appropriate audit of records whenever reimbursement is based on costs of providing care and services, or on a fee-for-service plus cost of materials.

F. Payment for transportation services shall be according to the following table:

TYPE OF SERVICE	PAYMENT METHODOLOGY
Taxi services	Rate set by the single state agency
Wheelchair van	Rate set by the single state agency
Nonemergency	Rate set by the single

ambulance	state agency
Emergency ambulance	Rate set by the single state agency
Volunteer drivers	Rate set by the single state agency
Air ambulance	Rate set by the single state agency
Mass transit	Rate charged to the public
Transportation agreements	Rate set by the single state agency
Special emergency transportation	Rate set by the single state agency

G. Payments for Medicare coinsurance and deductibles for noninstitutional services shall not exceed the allowed charges determined by Medicare in accordance with 42 CFR 447.304(b) less the portion paid by Medicare, other third party payors, and recipient copayment requirements of this Plan. See Supplement 2 of this methodology.

H. Payment for eyeglasses shall be the actual cost of the frames and lenses not to exceed limits set by the single state agency, plus a dispensing fee not to exceed limits set by the single state agency.

I. Expanded prenatal care services to include patient education, homemaker, and nutritional services shall be reimbursed at the lowest of: state agency fee schedule, actual charge, or Medicare (Title XVIII) allowances.

J. Targeted case management for high-risk pregnant women and infants up to age two and for community mental health and mental retardation services shall be reimbursed at the lowest of: state agency fee schedule, actual charge, or Medicare (Title XVIII) allowances.

§ 4. Reimbursement for all other nonenrolled institutional and noninstitutional providers.

A. All other nonenrolled providers shall be reimbursed the lesser of the charges submitted, the DMAS cost to charge ratio, or the Medicare limits for the services provided.

B. Outpatient hospitals that are not enrolled as providers with the Department of Medical Assistance Services (DMAS) which submit claims shall be paid based on the DMAS average reimbursable outpatient cost-to-charge ratio, updated annually, for enrolled outpatient hospitals less five percent. The five percent is for the cost of the additional manual processing of the claims. Outpatient hospitals that are nonenrolled shall submit claims on DMAS invoices.

C. Nonenrolled providers of noninstitutional services shall be paid on the same basis as enrolled in-state providers of noninstitutional services. Nonenrolled

providers of physician, dental, podiatry, optometry, and clinical psychology services, etc., shall be reimbursed the lesser of the charges submitted, or the DMAS rates for the services.

D. All nonenrolled noninstitutional providers shall be reviewed every two years for the number of Medicaid recipients they have served. Those providers who have had no claims submitted in the past 12 months shall be declared inactive.

E. Nothing in this regulation is intended to preclude DMAS from reimbursing for special services, such as rehabilitation, ventilator, and transplantation, on an exception basis and reimbursing for these services on an individually, negotiated rate basis.

§ 5. Refund of overpayments.

A. Providers reimbursed on the basis of a fee plus cost of materials.

1. When DMAS determines an overpayment has been made to a provider, DMAS shall promptly send the first demand letter requesting a lump sum refund. Recovery shall be undertaken even though the provider disputes in whole or in part DMAS's determination of the overpayment.

2. If the provider cannot refund the total amount of the overpayment within 30 days after receiving the DMAS demand letter, the provider shall promptly request an extended repayment schedule.

3. DMAS may establish a repayment schedule of up to 12 months to recover all or part of an overpayment or, if a provider demonstrates that repayment within a 12-month period would create severe financial hardship, the Director of the Department of Medical Assistance Services (the "director") may approve a repayment schedule of up to 36 months.

4. A provider shall have no more than one extended repayment schedule in place at one time. If an audit later uncovers an additional overpayment, the full amount shall be repaid within 30 days unless the provider submits further documentation supporting a modification to the existing extended repayment schedule to include the additional amount.

5. If, during the time an extended repayment schedule is in effect, the provider withdraws from the Program, the outstanding balance shall become immediately due and payable.

6. When a repayment schedule is used to recover only part of an overpayment, the remaining amount shall be recovered by the reduction of interim payments to the provider or by lump sum payments.

7. In the request for an extended repayment schedule,

the provider shall document the need for an extended (beyond 30 days) repayment and submit a written proposal scheduling the dates and amounts of repayments. If DMAS approves the schedule, DMAS shall send the provider written notification of the approved repayment schedule, which shall be effective retroactive to the date the provider submitted the proposal.

8. Once an initial determination of overpayment has been made, DMAS shall undertake full recovery of such overpayment whether the provider disputes, in whole or in part, the initial determination of overpayment. If an appeal follows, interest shall be waived during the period of administrative appeal of an initial determination of overpayment.

9. Interest charges on the unpaid balance of any overpayment shall accrue pursuant to § 32.1-313 of the Code of Virginia from the date the director's determination becomes final.

10. The director's determination shall be deemed to be final on (i) the issue date of any notice of overpayment, issued by DMAS, if the provider does not file an appeal, or (ii) the issue date factfinding conference, if the provider does not file an appeal, or (iii) the issue date of any administrative decision signed by the director, regardless of whether a judicial appeal follows. In any event, interest shall be waived if the overpayment is completely liquidated within 30 days of the date of the final determination. In cases in which a determination of overpayment has been judicially reversed, the provider shall be reimbursed that portion of the payment to which it is entitled, plus any applicable interest which the provider paid to DMAS.

B. Providers reimbursed on the basis of reasonable costs.

1. When the provider files a cost report indicating that an overpayment has occurred, full refund shall be remitted with the cost report. In cases where DMAS discovers an overpayment during desk review, field audit, or final settlement, DMAS shall promptly send the first demand letter requesting a lump sum refund. Recovery shall be undertaken even though the provider disputed in whole or in part DMAS's determination of the overpayment.

2. If the provider has been overpaid for a particular fiscal year and has been underpaid for another fiscal year, the underpayment shall be offset against the overpayment. So long as the provider has an overpayment balance, an underpayment discovered by subsequent review or audit shall also be used to reduce the remaining amount of the overpayment.

3. If the provider cannot refund the total amount of the overpayment (i) at the time it files a cost report

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indicating that an overpayment has occurred, the provider shall request an extended repayment schedule at the time of filing, or (ii) within 30 days after receiving the DMAS demand letter, the provider shall promptly request an extended repayment schedule.

4. DMAS may establish a repayment schedule of up to 12 months to recover all or part of an overpayment, or, if a provider demonstrates that repayment within a 12-month period would create severe financial hardship, the Director of the Department of Medical Assistance Services (the "director") may approve a repayment schedule of up to 36 months.

5. A provider shall have no more than one extended repayment schedule in place at one time. If an audit later uncovers an additional overpayment, the full amount shall be repaid within 30 days unless the provider submits further documentation supporting a modification to the existing extended repayment schedule to include the additional amount.

6. If during the time an extended repayment schedule is in effect, the provider withdraws from the program or fails to file a cost report in a timely manner, the outstanding balance shall become immediately due and payable.

7. When a repayment schedule is used to recover only part of an overpayment, the remaining amount shall be recovered by the reduction of interim payments to the provider or by lump sum payments.

8. In the request for an extended repayment schedule, the provider shall document the need for an extended (beyond 30 days) repayment and submit a written proposal scheduling the dates and amounts of repayments. If DMAS approves the schedule, DMAS shall send the provider written notification of the approved repayment schedule, which shall be effective retroactive to the date the provider submitted the proposal.

9. Once an initial determination of overpayment has been made, DMAS shall undertake full recovery of such overpayment whether or not the provider disputes, in whole or in part, the initial determination of overpayment. If an appeal follows, interest shall be waived during the period of administrative appeal of an initial determination of overpayment.

10. Interest charges on the unpaid balance of any overpayment shall accrue pursuant to § 32.1-313 of the Code of Virginia from the date the director's determination becomes final.

11. The director's determination shall be deemed to be final on (i) the due date of any cost report filed by the provider indicating that an overpayment has occurred, or (ii) the issue date of any notice of

overpayment, issued by DMAS, if the provider does not file an appeal, or (iii) the issue date of any administrative decision issued by DMAS after an informal fact finding conference, if the provider does not file an appeal, or (iv) the issue date of any administrative decision signed by the director, regardless of whether a judicial appeal follows. In any event, interest shall be waived if the overpayment is completely liquidated within 30 days of the date of the final determination. In cases in which a determination of overpayment has been judicially reversed, the provider shall be reimbursed that portion of the payment to which it is entitled, plus any applicable interest which the provider paid to DMAS.

§ 6. EPSDT.

A. Consistent with the Omnibus Budget Reconciliation Act of 1989 § 6403, reimbursement shall be provided for services resulting from early and periodic screening, diagnostic, and treatment services. Reimbursement shall be provided for such other measures described in Social Security Act § 1905(a) required to correct or ameliorate defects and physical and mental illnesses and conditions discovered by the screening services, whether or not such services are covered under the State Plan.

B. Payments to fee-for-service providers shall be in accordance with § 3 of Attachment 4.19 B the lower of (i) state agency fee schedule or (ii) actual charge (charge to the general public).

C. Payments to outpatient cost-based providers shall be in accordance with § 2 [*in of*] 4.19 B.

D. Psychiatric services delivered in a psychiatric hospital for individuals under age 21 shall be reimbursed at a uniform all-inclusive per diem fee and shall apply to all service providers. The fee shall be all-inclusive to include physician and pharmacy services. The methodology to be used to determine the per diem fee shall be as follows. The base period uniform per diem fee for psychiatric services resulting from an EPSDT screening shall be the median (weighted by children's admissions in state-operated psychiatric hospitals) variable per day cost of state-operated psychiatric hospitals in the fiscal year ending June 30, 1990. The base period per diem fee shall be updated each year using the hospital market basket factor utilized in the reimbursement of acute care hospitals in the Commonwealth.

§ 7. Dispute resolution for state-operated providers.

A. Definitions.

"DMAS" means the Department of Medical Assistance Services.

"Division director" means the director of a division of DMAS.

"State-operated provider" means a provider of Medicaid services which is enrolled in the Medicaid program and operated by the Commonwealth of Virginia.

B. Right to request reconsideration. A state-operated provider shall have the right to request a reconsideration for any issue which would be otherwise administratively appealable under the State Plan by a nonstate operated provider. This shall be the sole procedure available to state-operated providers.

The appropriate DMAS division must receive the reconsideration request within 30 calendar days after the provider receives its Notice of Amount of Program Reimbursement, notice of proposed action, findings letter, or other DMAS notice giving rise to a dispute.

C. Informal review. The state-operated provider shall submit to the appropriate DMAS division written information specifying the nature of the dispute and the relief sought. If a reimbursement adjustment is sought, the written information must include the nature of the adjustment sought, the amount of the adjustment sought, and the reasons for seeking the adjustment. The division director or his designee shall review this information, requesting additional information as necessary. If either party so requests, they may meet to discuss a resolution. Any designee shall then recommend to the division director whether relief is appropriate in accordance with applicable law and regulations.

D. Division director action. The division director shall consider any recommendation of his designee and shall render a decision.

E. DMAS director review. A state-operated provider may, within 30 days after receiving the informal review decision of the division director, request that the DMAS director or his designee review the decision of the division director. The DMAS director shall have the authority to take whatever measures he deems appropriate to resolve the dispute.

F. Secretarial review. If the preceding steps do not resolve the dispute to the satisfaction of the state-operated provider, within 30 days after the receipt of the decision of the DMAS director, the provider may request the DMAS director to refer the matter to the Secretary of Health and Human Resources and any other Cabinet Secretary as appropriate. Any determination by such Secretary or Secretaries shall be final.

VR 460-03-4.1921. Fees for Pediatric and Obstetric CPT Procedures.

PEDIATRIC SERVICES		
CPT-4 Code	Description	Payment
1.	Evaluation and Management Services - Physician services performed in a physician's	

office or in an outpatient facility

NEW PATIENT

99201	Problem focused history, examination, and straightforward medical decision making	\$ 24.00	24.20
99202	Expanded problem focused history, examination, and straightforward medical decision making	28.00	31.90
99203	Detailed history, examination and straightforward medical decision making of moderate complexity	33.00	40.00
99204	Comprehensive history, examination, and medical decision making of moderate complexity	46.75	57.75
99205	Comprehensive history, examination and medical decision making of high complexity	50.00	66.60

ESTABLISHED PATIENT

99211	Minimal presenting problems	\$ 10.00	10.65
99212	Problem focused history, or examination, and straightforward medical decision making	19.00	19.75
99213	Expanded problem focused history or examination, and medical decision making of low complexity	26.50	27.65
99214	Detailed history, or examination, and medical decision making of moderate complexity	35.00	38.85
99215	Comprehensive history, or examination and medical decision making of high complexity	45.00	54.30

2. Emergency Department Services for emergency care

NEW OR ESTABLISHED PATIENT

99281	Problem focused history, examination and straightforward medical decision making	\$ 26.00	23.75
99282	Expanded problem focused history examination and medical decision making of low complexity	46.00	40.35
99283	Expanded problem focused history, examination, and medical decision making of low to moderate complexity	49.00	49.75
99284	Detailed history, examination, and medical decision making of moderate complexity	57.00	63.50

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99285	Comprehensive history Comprehensive examination Medical decision making of high complexity	81.40	93.85	and varicella vaccine		
99295	Initial NICU care, per day, for the evaluation and management of a critically ill neonate or infant	213.50	650.00	90711	Diphtheria, tetanus, and pertussis (DTP) and injectable poliomyelitis vaccine	\$ drug cost
99296	Subsequent NICU care, per day, for the evaluation and management of a critically ill and unstable neonate or infant	160.00	322.00	90712	Poliovirus vaccine, live, oral (any type(s))	\$ drug cost
99297	Subsequent NICU care, per day, for the evaluation and management of a critically ill and stable neonate or infant	100.00	160.00	90713	Poliomyelitis vaccine	\$ drug cost
99431	History and examination of the normal newborn infant, initiation of diagnostic and treatment programs and preparation of hospital records	75.00	81.00	90720	Diphtheria, tetanus, and pertussis (DTP) and Hemophilus influenza B (HIB) vaccine	\$ drug cost
99432	Normal newborn care in other than hospital and birthing room setting, including physical examination of baby and conference(s) with parent(s)	33.00	35.60	90731	Hepatitis B vaccine	\$ drug cost
99433	Subsequent hospital care, for the evaluation and management of a normal newborn, per day	26.25	28.30	90737	Hemophilus influenza B	\$ drug cost
99440	Newborn resuscitation; care of the high-risk newborn at delivery, including, for example, inhalation therapy, aspiration, administration of medication for initial stabilization	100.00	108.00	* (Note: Appropriate office visit may be billed in addition to the above immunization injections. Payment for immunizations shall not exceed the Medicaid fee on file for the drug at time of service.)		
3. Immunization Injections*				** Vaccine supplied under contract with manufacturer.		
90700	Immunization, active; diphtheria, tetanus toxoids, and acellular pertussis vaccine (DTaP)	\$ drug cost		*** Medical justification will be required to demonstrate that use of a single-antigen vaccine is medically appropriate.		
90701	Immunization, active; diphtheria and tetanus toxoids and pertussis vaccine (DTP)	\$ drug cost		4. Preventive Medicine		
90702	Diphtheria and tetanus toxoids (DT)	\$ drug cost		NEW PATIENT		
90703	Tetanus toxoid	\$ drug cost		99381	Initial evaluation and management of a healthy individual requiring a comprehensive history, a comprehensive examination, the identification of risk factors, and the ordering of appropriate laboratory/diagnostic procedures; infant (age under 1 year)	\$ 35.00 35.90
90704	*** Mumps virus vaccine, live	\$ drug cost		99382	Early childhood (age 1 through 4 years)	39.00 40.00
90705	*** Measles virus vaccine, live, attenuated	\$ drug cost		99383	Late childhood (age 5 through 11 years)	39.00 40.00
90706	*** Rubella virus vaccine, live	\$ drug cost		99384	Adolescent (age 12 through 17 years)	35.00 35.90
90707	** Measles, mumps and rubella virus vaccine, live	\$ drug cost		ESTABLISHED PATIENT		
90708	Measles and rubella virus vaccine, live	\$ drug cost		99391	Periodic evaluation and management of a healthy individual requiring a comprehensive history, a comprehensive examination, the identification of risk factors, and the ordering of appropriate laboratory/diagnostic procedures; infant (age under 1 year)	\$ 35.00 35.90
90709	Rubella and mumps virus vaccine, live	\$ drug cost		99392	Early childhood (age 1 through 4 years)	36.00 36.95
90710	Measles, mumps, rubella,	\$ drug cost		99393	Late childhood (age 5 through 11 years)	36.00 36.95
				99394	Adolescent (age 12 through 17 years)	31.00 31.80
				OBSTETRICAL SERVICES		

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1. Maternity Care and Delivery			59325 Cerclage of cervix, during pregnancy; abdominal	525.00	227.60
INCISION			DELIVERY, ANTEPARTUM AND POSTPARTUM CARE		
59000 Amniocentesis, any method	\$ 120.00	76.68	59400 Total obstetrical care (all-inclusive, "global" care) includes antepartum care, vaginal delivery (with or without episiotomy, and/or forceps or breech delivery) and postpartum care	\$ 1,200.00	1,178.60
59012 Cordocentesis (intrauterine), any method	110.00	197.80	59409 Vaginal delivery only (with or without episiotomy and/or forceps)	625.00	774.00
59015 Chorionic villus sampling, any method	113.54	108.30	59410 Vaginal delivery only (with or without episiotomy, forceps or breech delivery) including in-hospital postpartum care (separate procedure)	864.00	816.75
59020 Fetal oxytocin stress test	60.00	64.95	OBSTETRICAL SERVICES		
59025 Fetal non-stress test	50.00	46.50	59412 External cephalic version, with or without tocolysis	\$ 250.00	166.65
59030 Fetal scalp blood sampling	60.00	83.55	59414 Delivery of placenta	243.00	95.00
59050 Initiation and/or supervision of internal fetal monitoring during labor by consultant	50.00	59.50	59425 Antepartum care only; 4-6 visits	128.50	235.00
59100 Hysterotomy, abdominal (e.g. for hidatidiform mole, abortion)	315.00	343.20	59426 7 or more visits	300.00	403.00
EXCISION			59430 Postpartum care only (separate procedure)	30.00	49.65
59120 Surgical treatment of ectopic pregnancy, tubal or ovarian requiring salpingectomy and/or oophorectomy, abdominal or vaginal approach	\$ 990.00	517.41	CESAREAN SECTION		
59121 Surgical treatment of ectopic pregnancy; tubal or ovarian, without salpingectomy and/or oophorectomy	332.00	422.00	59510 Routine obstetric care including antepartum care, cesarean delivery, and postpartum care	\$ 1,441.00	1,321.65
59130 Abdominal pregnancy	540.00	457.00	59514 Cesarean delivery only	1,098.00	897.00
59135 Interstitial, uterine pregnancy requiring total hysterectomy	1,100.00	753.90	59515 Cesarean delivery only including postpartum care	1,134.00	1,005.25
59136 Interstitial, uterine pregnancy with partial resection of uterus	1,100.00	514.00	59525 Subtotal or total hysterectomy after cesarean delivery	383.00	393.85
59140 Cervical, with evacuation	402.70	315.00	ABORTION		
59150 Laparoscopic treatment of ectopic pregnancy; without salpingectomy and/or oophorectomy	630.00	374.00	59812 Treatment of spontaneous abortion, any trimester, completed surgically	\$ 475.00	395.00
59151 Laparoscopic treatment of ectopic pregnancy; with salpingectomy and/or oophorectomy	650.00	518.00	59820 Treatment of missed abortion, completed surgically; first trimester	442.00	381.05
59160 Curettage, postpartum (separate procedure)	405.00	192.30	59821 Treatment of missed abortion, completed surgically; second trimester	500.00	239.00
59200 Insertion of cervical dilator (e.g. laminaria, prostaglandin)	69.85	45.40	59830 Treatment of septic abortion completed surgically	229.15	268.20
REPAIR			2. Diagnostic Ultrasound		
59300 Episiotomy or vaginal repair, by other than attending physician	\$ 250.00	203.25	PELVIS		
59320 Cerclage of cervix, during pregnancy; vaginal	315.00	146.60	74710 Pelvimetry, with or without	42.00	48.30

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	placental localization		
74775	Perineogram (e.g. vaginogram, for sex determination or extent or anomalies)	30.00	74.70
76805	Echography, pregnant uterus, B-scan and/or real time with image documentation; complete (complete fetal and maternal evaluation)	\$ 90.00	97.18
76810	Complete (complete fetal and maternal evaluation), multiple gestation, after the first trimester	180.00	193.85
76815	Limited (gestation age,) heart beat, placental location, fetal position, or emergency in the delivery room)	60.00	64.80
76816	Follow-up or repeat	45.00	50.40
76818	Fetal biophysical profile	75.00	78.70
76825	Echocardiography, fetal, real time with image documentation (2D) with or without M-mode recording	90.00	92.20
76826	Follow-up or repeat study	45.00	68.10
76827	Doppler echocardiography, fetal, cardiovascular system, pulsed wave and/or continuous wave with spectral display; complete	57.24	91.75
76828	Follow-up or repeat study	28.47	28.80

VR 460-02-4.1924. State Agency Fee Schedule.

§ 1. Reimbursement of fee-for-service providers.

Effective for dates of service on or after July 1, 1995, the Department of Medical Assistance Services (DMAS) shall reimburse fee-for-service providers, with the exception of home health services (see Supplement 3), using a fee schedule that is based on a Resource Based Relative Value Scale (RBRVS).

§ 2. Fee schedule.

A. For those services or procedures which are included in the RBRVS published by the Health Care Financing Administration (HCFA) as amended from time to time, DMAS' fee schedule shall employ the Relative Value Units (RVUs) developed by HCFA as periodically updated.

B. DMAS shall calculate the RBRVS-based fees using conversion factors (CFs) published from time to time by HCFA. DMAS shall adjust HCFA's CFs by an additional factor so that no change in expenditure will result solely from the implementation of the RBRVS-based fee schedule. DMAS may revise the additional factor when HCFA updates its RVUs or CFs so that no change in expenditure will result solely from such updates. Except

for this adjustment, DMAS' CFs shall be the same as those published from time to time by HCFA. The calculation of the additional factor shall be based on the assumption that no change in services provided will occur as a result of these changes to the fee schedule.

C. For those services or procedures for which there are no established RVs, DMAS shall approximate a reasonable relative value payment level by looking to similar existing relative value fees. If DMAS is unable to establish a relative value payment level for any service or procedure, the fee shall not be based on a RBRVS, but shall instead be based on the previous fee-for-service methodology.

D. Fees shall not vary by geographic locality.

E. The RBRVS-based fees shall be phased in over three years. During the first 12 months of implementation, fees shall be based 1/3 on RBRVS-based fees and 2/3 on previously existing fees. During the second 12 months of implementation, fees shall be based 2/3 on RBRVS-based fees and 1/3 on previously existing fees. Thereafter, fees shall be based entirely on RBRVS-based fees.

V.A.R. Doc. No. R95-259; Filed January 25, 1995, 4:09 p.m.

DEPARTMENT OF STATE POLICE

REGISTRAR'S NOTICE: This regulation is excluded from Article 2 of the Administrative Process Act in accordance with § 9-6.14:4.1 C 4(c) of the Code of Virginia, which excludes regulations that are necessary to meet the requirements of federal law or regulations, provided such regulations do not differ materially from those required by federal law or regulation. The Department of State Police will receive, consider and respond to petitions by any interested person at any time with respect to reconsideration or revision.

Title of Regulation: VR 545-01-1. Motor Carrier Safety Regulations.

Statutory Authority: § 52-8.4 of the Code of Virginia.

Effective Date: March 22, 1995.

Summary:

Amendment 5 adopts and incorporates by reference changes made by the U.S. Department of Transportation, Federal Highway Administration, to Title 49, Code of Federal Regulations (CFR), Parts 390 through 397 promulgated and in effect as of January 2, 1995. These changes include (i) amending 49 CFR 390.3 by removing paragraph (f) (6); (ii) amending 49 CFR 390.5 by revising the definition of a motor carrier to include private motor carriers of passengers (nonbusiness and business); (iii) amending 49 CFR 390.5 by defining an out-of-service order; (iv)

amending 49 CFR 391.15 by defining how drivers are disqualified for violations and convictions; (v) amending 49 CFR 391.31 by requiring a successfully completed road test before being allowed to drive a commercial motor vehicle; (vi) amending 49 CFR 391.51 by allowing driver's qualification file to be kept in driver's personnel file; (vii) amending 49 CFR 391 by adding 391.68, private motor carriers of passengers (nonbusiness); (viii) amending 49 CFR 391 by adding 391.73, private motor carriers of passengers (business); (ix) amending 49 CFR 391.83 by defining applicability of requirements found in Part 391; (x) amending 49 CFR 391.93 by giving an implementation schedule for drug testing; (xi) amending 49 CFR 391.125 by setting dates for termination of Subpart H - Controlled Substance Testing and implementation of Part 382 - Controlled Substances and Alcohol Use and Testing; (xii) amending 49 CFR 391.11 (b)(11), 35, 37, 51 (c)(5), 51 (d)(3), 61, 67 (a), 67 (c), 68, 69 (b), 71 (a), 73, and appendices A and C to subchapter B by removing regulations and appendices from the federal Motor Carrier Safety Regulations which are obsolete, redundant or more appropriately regulated by state and local authorities; (xiii) amending 49 CFR 392.5 by changing intoxicating beverage to alcohol; (xiv) amending 49 CFR 392.22 by clarifying emergency signals on stopped vehicles for types, placement, and daylight rules; (xv) amending 49 CFR 392 by removing §§ 9 (a), 12, 18, 21, 30, 31, 32, 40, 41, 61, 62, 65, and 69 which were redundant of state and local regulations and changed the title to Subpart E; (xvi) amending 49 CFR 393.7 by the addition of matters incorporated by reference; (xvii) amending 49 CFR 393.67 to allow the continued use of certain commercial motor vehicles provided the fuel tank is maintained to the manufacturer's original standards; (xviii) amending 49 CFR 393.95 concerning standards for emergency equipment; (xix) amending 49 CFR 393.102 to adopt the use of working load limits in specifying the minimum strength of cargo securement devices; (xx) amending 49 CFR 395.2 by further defining on-duty time to include all time spent in a drug or alcohol test procedure; (xxi) amending 49 CFR 395.8 which exempts drivers for private motor carriers of passengers (nonbusiness) from maintaining records of duty status; (xxii) amending 49 CFR 395.2 by removing paragraph (6); (xxiii) amending 49 CFR 396.3 by exempting private motor carriers of passengers (nonbusiness) from certain record keeping and removes paragraph (b)(4) concerning a lubrication record; (xxiv) amending 49 CFR 396.11 by adding private motor carriers of passengers (nonbusiness) to the exemption in paragraph (d); (xxv) amending § 2.4 to add amendments to § 52-8.4 of the Code of Virginia made by the 1994 General Assembly; and (xxvi) amending 49 CFR 397 by removing § 397.9 and adding Subpart C - Routing of nonradioactive hazardous materials. This subpart contains routing requirements and procedures that states must follow if they establish, maintain or enforce routing designations over which nonradioactive hazardous

materials may or may not be transported by a motor vehicle. Amendments are also made by Subpart E relating to federal preemption.

Agency Contact: Copies can be obtained for \$5.00 from the Department of State Police, Office of Administrative Coordinator, Motor Carrier Safety, P.O. Box 27472, Richmond, VA 23261-7472, telephone (804) 378-3489.

VR 545-01-1. Motor Carrier Safety Regulations.

PART I. DEFINITIONS.

§ 1.1. Definitions.

The following words and terms, when used in these regulations, shall have the following meanings, unless the context clearly indicates otherwise.

"Commercial motor vehicle" means any self-propelled or towed vehicle used on the highways in interstate or intrastate commerce to transport passengers or property if (i) such vehicle has a gross vehicle weight rating or gross combination weight rating of more than 26,000 pounds, (ii) is designed to transport more than 15 passengers, including the driver, regardless of weight or (iii) is used to transport hazardous materials in a quantity requiring placards by regulations issued under authority of Article 7 (§ 10.1-1450 et seq.) of Chapter 14 of Title 10.1 of the Code of Virginia, Transportation of Hazardous Materials.

"Motor carrier" means a common carrier by motor vehicle, a contract carrier by motor vehicle or a private carrier of property by motor vehicle. This term also encompasses any agent, officer, representative or employee who is responsible for hiring, supervision, training, assignment or dispatching of drivers.

"Safety inspections" means the detailed examination of a vehicle for compliance with safety regulations promulgated under § 52-8.4 of the Code of Virginia and includes a determination of the qualifications of the driver and his hours of service.

"Superintendent" means the Superintendent of the Department of State Police of the Commonwealth of Virginia.

"Transport vehicle" means any vehicle owned or leased by a motor carrier used in the transportation of goods or persons.

PART II. GENERAL INFORMATION AND LEGISLATIVE AUTHORITY.

§ 2.1. Authority for regulation.

A. These regulations are issued under authority of § 52-8.4 of the Code of Virginia, Powers and duties to

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promulgate regulations; inspection of certain records.

B. Section 52-8.4 of the Code of Virginia mandates that the Superintendent of State Police, with the cooperation of such other agencies of the Commonwealth as may be necessary, shall promulgate regulations pertaining to commercial motor vehicle safety pursuant to the United States Motor Carrier Act of 1984.

C. These regulations, as promulgated, shall be no more restrictive than the applicable provisions of the Federal Motor Carrier Safety Regulations of the United States Department of Transportation.

§ 2.2. Purpose of regulations.

These regulations shall set forth criteria relating to driver, vehicle, and cargo safety inspections with which motor carriers and transport vehicles shall comply.

§ 2.3. Application of regulations.

A. These regulations and those contained in Title 49, Code of Federal Regulations, Parts 40 and 390 through 397, unless excepted, shall be applicable to all employers, employees, and commercial motor vehicles, which transport property or passengers in interstate and intrastate commerce.

B. These regulations shall not apply to hours worked by any carrier when transporting passengers or property to or from any portion of the Commonwealth for the purpose of providing relief or assistance in case of earthquake, flood, fire, famine, drought, epidemic, pestilence, major loss of utility services or other calamity or disaster. The suspension of the regulation provided for in § 52-8.4 A shall expire if the Secretary of the United States Department of Transportation determines that it is in conflict with the intent of Federal Motor Carrier Safety Regulations.

§ 2.4. Enforcement.

The Department of State Police, together with all other law-enforcement officers of the Commonwealth certified to perform vehicle safety inspections as defined by § 46.2-1001 of the Code of Virginia and those agents of the Motor Carrier Enforcement Section of the State Corporation Commission who have satisfactorily completed 40 hours of on-the-job training and a course of instruction as prescribed by the U.S. Department of Transportation, Federal Highway Administration, Office of Motor Carriers, in federal motor carrier safety regulations, safety inspection procedures, and out-of-service criteria shall enforce the regulations and other requirements promulgated pursuant to § 52-8.4 of the Code of Virginia. Those law-enforcement officers certified to enforce the regulations and other requirements promulgated pursuant to § 52-8.4 shall annually receive in-service training in current federal motor carrier safety regulations, safety inspection procedures, and out-of-service criteria.

§ 2.5. Inspection of records.

Any records required to be maintained by motor carriers pursuant to regulations promulgated by the Superintendent under the authority of § 52-8.4 A of the Code of Virginia, shall be open to inspection during a carrier's normal business hours by specially trained members of the Department of State Police designated for that purpose by the Superintendent shall also be authorized, with consent of the owner, operator or agent in charge or with an appropriate warrant obtained under the procedure prescribed in Chapter 24 (§ 19.2-393 et seq.) of Title 19.2 of the Code of Virginia, to go upon the property of motor carriers to verify the accuracy of maintenance records by an inspection of the vehicles to which those records relate.

§ 2.6. Penalties.

Any violation of the provisions of the regulations adopted pursuant to § 52-8.4 of the Code of Virginia, shall constitute a traffic infraction punishable by a fine of not more than \$1,000 for the first offense or by a fine of not more than \$5,000 for a subsequent offense. Each day of violation shall constitute a separate offense.

PART III. INCORPORATION BY REFERENCE.

Article 1. Compliance with Federal Regulations.

§ 3.1. Compliance.

A. Every person and commercial motor vehicle subject to the Motor Carrier Safety Regulations operating in interstate or intrastate commerce within or through the Commonwealth of Virginia shall comply with the Federal Motor Carrier Safety Regulations promulgated by the United States Department of Transportation, Federal Highway Administration, with amendments promulgated and in effect as of January 19, 1994 January 2, 1995, pursuant to the United States Motor Carrier Safety Act found in Title 49, Code of Federal Regulations (CFR), Parts 390 through 397, which are incorporated in these regulations by reference, with certain exceptions, as set forth below.

B. Those persons required to comply with subsection A shall also comply with Procedures for Transportation Workplace Drug Testing Program promulgated by the United States Department of Transportation, with amendments and in effect as of the date in subsection A and found in Title 49 of the Code of Federal Regulations, Part 40, which is incorporated in these regulations by reference as set forth below.

Article 2. Part 40 - Procedures for Transportation Workplace Drug Testing Programs.

§ 3.2. Drug testing procedures.

Incorporated with no exceptions as it relates to Title 49 of the Code of Federal Regulations, Part 391, Subpart H - Controlled Substance Testing (§ 391.81 et seq.).

Article 3. Part 390 - General.

§ 3.3. Minimum levels of financial responsibility for motor carriers - § 390.3 (c).

A commercial motor vehicle used wholly in intrastate commerce is not subject to this section unless transporting hazardous materials, hazardous substances or hazardous waste as set forth in Title 49, Code of Federal Regulations, Part 387.3, (b) and (c).

§ 3.4. Exempt intra-city zone - § 390.5.

This term does not include a driver or vehicle used wholly in intrastate commerce.

Article 4. Part 391 - Qualifications of Drivers.

§ 3.5. Minimum age - § 391.11.

A driver may be 18 years old if operating wholly in intrastate commerce and is not subject to Article 7 (§ 10.1-1450 et seq.) of Chapter 14 of Title 10.1 of the Code of Virginia, Regulations Governing the Transportation of Hazardous Materials.

§ 3.6. Investigations and inquiries - § 391.23.

Except as provided in subpart G of this part, each intrastate motor carrier shall make investigations and inquiries required by paragraphs (1) and (2) of this section with respect to each driver it employs, other than a person who has been a regularly employed driver of the intrastate motor carrier for a continuous period which began before July 9, 1986.

§ 3.7. Resolution of conflicts of medical evaluation - § 391.47.

The superintendent reserves the right to resolve medical conflicts involving those drivers used wholly in intrastate commerce.

§ 3.8. Waiver of certain physical defects - § 391.49.

A person who is not physically qualified to drive under § 391.41 (b) (1) or (b) (2) or (b) (3) or (b) (10), and is not subject to Article 7 (§ 10.1-1450 et seq.) of Chapter 14 of Title 10.1 of the Code of Virginia, Regulations Governing the Transportation of Hazardous Materials, and who is otherwise qualified to drive a property-carrying motor vehicle, may drive a property-carrying motor vehicle in intrastate commerce if granted a waiver by the

superintendent.

§ 3.9. Driver qualification files - § 391.51.

The applicable date referred to in § 391.51 (b) and (c) shall be July 9, 1986, for drivers used wholly in intrastate commerce. The superintendent's letter granting a waiver of a physical disqualification to an intrastate driver, if a waiver was issued under § 391.49, shall be in the driver qualification files.

§ 3.10. Subpart G - Limited exemptions - § 391.61.

The applicable date referred to in § 391.61 shall be July 9, 1986, for drivers used wholly in intrastate commerce.

§ 3.11. Subpart H - Controlled substance testing - § 391.81 et seq.

Intrastate motor carriers shall implement Subpart H effective November 15, 1991. Ninety days will be allowed for affected intrastate motor carriers to comply.

Article 5. Part 392 - Driving of Motor Vehicles.

§ 3.12. Driving of motor vehicles.

Incorporated with no exceptions.

Article 6. Part 393 - Parts and Accessories Necessary for Safe Operation.

§ 3.13. Parts and accessories.

Incorporated with no exceptions.

Article 7. Part 395 - Hours of Service of Drivers.

§ 3.14. Drivers declared out of service - § 395.13 (a).

Law-enforcement officers of the Department of State Police specifically designated by the superintendent are authorized to declare a driver out of service and to notify the motor carrier of that declaration, upon finding at the time and place of examination that the driver has violated the out-of-service criteria as set forth in § 395.13 (b).

§ 3.15. Responsibilities of motor carriers - § 395.13 (c) (2).

A motor carrier shall complete the "Motor Carrier's Report of Compliance with this Notice" portion of form S.P. 233-A (Virginia State Police Motor Carrier Safety Inspection) and deliver the copy of the form either personally or by mail to the Department of State Police, Office of Administrative Coordinator, Motor Carrier Safety, at the address specified upon the form within 15 days following the date of the examination. If the motor carrier mails the form, delivery is made on the date it is

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postmarked.

Article 8.

Part 396 - Inspection, Repair, and Maintenance.

§ 3.16. Inspection of motor vehicles in operation - § 396.9

(a).

Law-enforcement officers of the Department of State Police specifically designated by the superintendent are authorized to enter upon and perform inspections of motor carrier vehicles in operation.

§ 3.17. Motor vehicles declared "out of service" - § 396.9

(c).

Authorized personnel defined in § 3.16 above shall declare and mark "out of service" any motor vehicle which by reason of its mechanical condition or loading would likely cause an accident or a breakdown. An "Out of Service Vehicle" sticker shall be used to mark vehicles "out of service."

§ 3.18. Motor carrier's disposition - § 396.9 (d) (3) (ii).

Motor carriers shall return the completed form S.P. 233 (Virginia State Police Motor Carrier Safety Inspection) to the Department of State Police at the address indicated on the report.

Article 9.

Part 397 - Transportation of Hazardous Materials; Driving and Parking Rules.

§ 3.19. Driving and parking rules - § 397.

Incorporated with no exceptions.

V.A.R. Doc. No. R95-265; Filed January 30, 1995, 3:10 p.m.



COMMONWEALTH of VIRGINIA

JOAN W. SMITH
REGISTRAR OF REGULATIONS

VIRGINIA CODE COMMISSION
General Assembly Building

110 CAPITOL STREET
RICHMOND, VIRGINIA 23219
(804) 786-3591

February 10, 1995

Colonel M. Wayne Huggins, Superintendent
Department of State Police
7700 Midlothian Turnpike
Richmond, Virginia 23235

Re: VR 545-01-1 Motor Carrier Safety Regulations

Dear Colonel Huggins:

This will acknowledge receipt of the above-referenced regulations from the Department of State Police.

As required by § 9-6.14:4.1 C.4.(c) of the Code of Virginia, I have determined that these regulations are exempt from the operation of Article 2 of the Administrative Process Act, since they do not differ materially from those required by federal law.

Sincerely,

A handwritten signature in cursive script, appearing to read "Joan W. Smith".

Joan W. Smith
Registrar of Regulations

JWS:jbc

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VIRGINIA SOIL AND WATER CONSERVATION BOARD

Title of Regulations: VR 625-02-00. Erosion and Sediment Control Regulations.

Statutory Authority: §§ 10.1-502 and 10.1-561 of the Code of Virginia.

Effective Date: March 22, 1995.

Summary:

This regulatory action amends the existing regulations which became effective September 13, 1990, due to the passage of Chapter 925 of the 1993 Virginia Acts of Assembly and other legislative changes since last amended.

The regulations establish minimum statewide standards for the control of soil erosion, sediment deposition and nonagricultural runoff from land-disturbing activities that must be met in local erosion and sediment control programs, and also by state agencies that conduct land-disturbing activities. Land-disturbing activities include, but are not limited to, clearing, grading, excavating, transporting and filling of land.

The final regulations contain amendments which (i) provide for compliance with the changes to the Erosion and Sediment Control Law which became effective July 1, 1993; (ii) provide for added efficiency and flexibility in a locality's implementation of its own Erosion and Sediment Control Program; and (iii) modify the existing regulations to reflect current "best available" technology.

Summary of Public Comment and Agency Response: A summary of comments made by the public and the agency's response may be obtained from the promulgating agency or viewed at the office of the Registrar of Regulations.

Agency Contact: Copies of the regulation may be obtained from James P. Edmonds, Department of Conservation and Recreation, 203 Governor Street, Suite 206, Richmond, VA 23219, telephone (804) 786-3997.

VR 625-02-00. Erosion and Sediment Control Regulations.

§ 1. [±] Definitions.

The following words and terms, when used in these regulations, shall have the following meaning, unless the context clearly indicates otherwise. In addition, some terms not defined herein are defined in § 10.1-560 of the Erosion and Sediment Control Law.

"Act" means the Erosion and Sediment Control Law, Article 4 (§ 10.1-560 et seq.) of Chapter 5 of Title 10.1 of the Code of Virginia.

"Adequate channel" means a watercourse that will convey a chosen the designated frequency storm event without overtopping its banks or causing erosive damage to the bed, banks and overbank sections of the same.

"Agreement in lieu of a plan" means a contract between the program authority and the owner which specifies conservation measures which must be implemented in the construction of a single-family residence; this contract may be executed by the program authority in lieu of an erosion and sediment control plan.

"Applicant" means any person submitting an erosion and sediment control plan or an agreement in lieu of a plan for approval or requesting the issuance of a permit, when required, authorizing land-disturbing activities to commence.

"Board" means the Virginia Soil and Water Conservation Board.

"Causeway" means a temporary structural span constructed across a flowing watercourse or wetland to allow construction traffic to access the area without causing erosion damage.

"Channel" means a natural stream or manmade waterway.

"Cofferdam" means a watertight temporary structure in a river, lake, etc., for keeping the water from an enclosed area that has been pumped dry so that bridge foundations, dams, etc., may be constructed.

"Dam" means a barrier to confine or raise water for storage or diversion, to create a hydraulic head, to prevent gully erosion, or to retain soil, rock or other debris.

"Denuded" means a term applied to land that has been physically disturbed and no longer supports vegetative cover.

"Department" means the Department of Conservation and Recreation.

"Development" means a tract or parcel of land developed or to be developed as a single unit under single ownership or unified control which is to be used for any business or industrial purpose or is to contain three or more residential dwelling units.

"Dike" means an earthen embankment constructed to confine or control water, especially one built along the banks of a river to prevent overflow of lowlands; levee.

"Director" means the Director of the Department of Conservation and Recreation.

"District" or "soil and water conservation district" means a political subdivision of the Commonwealth.

organized in accordance with the provisions of Article 3 (§ 10.1-506 et seq.) of Chapter 5 of Title 10.1 of the Code of Virginia.

"Diversion" means a channel with a supporting earthen ridge on the lower side constructed across or at the bottom of a slope for the purpose of intercepting surface runoff.

"Division" means the Division of Soil and Water Conservation.

"Dormant" refers to denuded land that is not actively being brought to a desired grade or condition.

"Energy dissipator" means a nonerodible structure which reduces the velocity of concentrated flow to reduce its erosive effects.

"Erosion and sediment control plan," "conservation plan" or "plan," means a document containing material for the conservation of soil and water resources of a unit or group of units of land. It may include appropriate maps, an appropriate soil and water plan inventory and management information with needed interpretations, and a record of decisions contributing to conservation treatment. The plan shall contain all major conservation decisions and all information deemed necessary by the plan-approving authority to assure that the entire unit or units of land will be so treated to achieve the conservation objectives.

"Flume" means a constructed device lined with erosion-resistant materials intended to convey water on steep grades.

[*"Hydraulic outlet structure"* means a control section composed of orifices, weirs or conduits which release impounded runoff at a prescribed flowrate.]

"Hydrologic unit" means a defined land area drained by a river/stream or system of connecting rivers/streams such that all surface water within the area flows through a single outlet.

"Live watercourse" means a definite channel with bed and banks within which concentrated water flows continuously.

"Locality" means a county, city or town.

"Natural stream" means nontidal waterways that are part of the natural topography. They usually maintain a continuous or seasonal flow during the year and are characterized as being irregular in cross-section with a meandering course. Constructed channels such as drainage ditches or swales shall not be considered natural streams.

"Nonerodible" means a material, e.g., riprap, concrete, plastic, etc., that will not experience surface wear due to natural forces.

"Person" means any individual, partnership, firm, association, joint venture, public or private corporation, trust, estate, commission, board, public or private institution, utility, cooperative, county, city, town or other political subdivision of the Commonwealth, any interstate body, or any other legal entity.

"Plan-approving authority" means the board, ~~the district or a county, city, or town,~~ or the program authority, a department of a county, city, or town, program authority, or an agent of the program authority responsible for determining the adequacy of a conservation plan submitted for land-disturbing activities on a unit or units of land and for approving plans.

"Post-development" refers to conditions that may be reasonably expected or anticipated to exist after completion of the land development activity on a specific site or tract of land.

"Program administrator" means the person or persons responsible for administering and enforcing the erosion and sediment control program of a program authority.

"Program authority" means a district, county, city, or town which has adopted a soil erosion and sediment control program which has been approved by the board.

"Pre-development" refers to conditions at the time the erosion and sediment control plan is submitted to the plan-approving authority. Where phased development or plan approval occurs (preliminary grading, roads and utilities, etc.), the existing conditions at the time the erosion and sediment control plan for the initial phase is submitted for approval shall establish pre-development conditions.

"Sediment basin" means a depression formed from the construction of a barrier or dam built to retain sediment and debris; temporary impoundment built to retain sediment and debris with a controlled stormwater release structure.

"Sediment trap" means a temporary impoundment built to retain sediment and debris which is formed by constructing an earthen embankment with a stone outlet.

"Sheet flow" (also called overland flow) means shallow, unconcentrated and irregular flow down a slope. The length of strip for overland flow usually does not exceed 200 feet under natural conditions.

"Shore erosion control project" means an erosion control project approved by local wetlands boards, the Virginia Marine Resources Commission, the Virginia Department of Environmental Quality or the United States Army Corps of Engineers and located on tidal waters and within nonvegetated or vegetated wetlands as defined in [§ Title] 28.2 of the Code of Virginia.

"Single family residence-separately built" means a

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noncommercial dwelling that is occupied exclusively by one family and not part of a residential subdivision development.

"Slope drain" means tubing or conduit made of nonerosive material extending from the top to the bottom of a cut or fill slope with an energy dissipator at the outlet end.

"Stabilized" means an area land that can be expected has been treated to withstand normal exposure to atmospheric conditions natural forces without incurring erosion damage.

"Storm sewer inlet" means a structure through which stormwater is introduced into an underground conveyance system.

"Stormwater detention" means the process of temporarily impounding runoff to reduce flood peaks and discharging it through a hydraulic outlet structure to a downstream conveyance system.

"Stormwater retention" means the process by which an impoundment structure stores the total runoff of a given storm and then releases the flow at a controlled rate over an extended period.

"Subdivision" unless otherwise defined in a local ordinance adopted pursuant to § 15.1-465 of the Code of Virginia, means the division of a parcel of land into three or more lots or parcels of less than five acres each for the purpose of transfer of ownership or building development, or, if a new street is involved in such division, any division of a parcel of land. The term includes resubdivision and, when appropriate to the context, shall relate to the process of subdividing or to the land subdivided.

"Temporary stream crossing" "Temporary vehicular stream crossing" means a temporary nonerodible structural span installed across a flowing watercourse for use by construction traffic. Structures may include bridges, round pipes or pipe arches constructed on or through nonerodible material.

"Ten-year frequency storm" means a storm that is capable of producing rainfall expected to be equaled or exceeded on the average of once in 10 years. It may also be expressed as an exceedence probability with a 10% chance of being equaled or exceeded in any given year.

"Two-year frequency storm" means a storm that is capable of producing rainfall expected to be equaled or exceeded on the average of once in two years. It may also be expressed as an exceedence probability with a 50% chance of being equaled or exceeded in any given year.

"Twenty-five-year storm" means a storm that is capable of producing rainfall expected to be equaled or exceeded on the average of once in 25 years. It may also be

expressed as exceedence probability with a 4.0% chance of being equaled or exceeded in any given year.

[§ 1.2. Authority.

The authority for these regulations is contained in Article 4 (§ 10.1-560 et seq.) of Chapter 5 of Title 10.1 of the Code of Virginia ; particularly § 10.1-561 .]

§ [1.3. 2.] Purpose.

The purpose of these regulations is to form the basis for the administration, implementation and enforcement of the Act. The intent of these regulations is to establish the framework for compliance with the Act while at the same time providing flexibility for innovative solutions to erosion and sediment control concerns.

§ [1.4. 3.] Scope and applicability.

A. These regulations set forth minimum standards for the effective control of soil erosion, sediment deposition and nonagricultural runoff that are required to *must* be met in erosion and sediment control programs adopted by districts and localities under the Act. :

B. The standards contained in these regulations also apply to:

1. *In erosion and sediment control programs adopted by districts and localities under § 10.1-562 of the Act;*

1. 2. ~~Erosion~~ *In erosion and sediment control plans that may be submitted directly to the board pursuant to § 10.1-563 A of the Act;*

2. 3. ~~Annual~~ *In annual general erosion and sediment control specifications that electric and telephone utility companies and railroad companies are required to file with the board pursuant to § 10.1-563 D of the Act;*

3. 4. ~~Conservation~~ *In conservation plans and annual specifications that state agencies are required to file with the department pursuant to § 10.1-564 of the Act; and*

4. 5. ~~Federal~~ *By federal agencies that enter into agreements with the board.*

C. B. The submission of annual specifications to the board or the department by any agency or company does not eliminate the need for a project specific erosion and sediment control plan.

C. *These regulations must be incorporated into the local erosion and sediment control program within one year of their effective date.*

§ [1.5. 4.] Minimum standards.

An erosion and sediment control program adopted by a

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district or locality shall contain regulations that are must be consistent with the following criteria, techniques and methods:

1. Permanent or temporary soil stabilization shall be applied to denuded areas within seven days after final grade is reached on any portion of the site. Temporary soil stabilization shall be applied within seven days to denuded areas that may not be at final grade but will remain dormant (~~undisturbed~~) for longer than 30 days. Permanent stabilization shall be applied to areas that are to be left dormant for more than one year.

2. During construction of the project, soil stock piles *and borrow areas* shall be stabilized or protected with sediment trapping measures. The applicant is responsible for the temporary protection and permanent stabilization of all soil stockpiles on site as well as *borrow areas and* soil intentionally transported from the project site.

3. A permanent vegetative cover shall be established on denuded areas not otherwise permanently stabilized. Permanent vegetation shall not be considered established until a ground cover is achieved that ; in the opinion of the local program administrator or his designated agent, is uniform, mature enough to survive and will inhibit erosion.

4. Sediment basins and traps, perimeter dikes, sediment barriers and other measures intended to trap sediment shall be constructed as a first step in any land-disturbing activity and shall be made functional before upslope land disturbance takes place.

5. Stabilization measures shall be applied to earthen structures such as dams, dikes and diversions immediately after installation.

6. *Sediment traps and sediment basins shall be designed and constructed based upon the total drainage area to be served by the trap or basin.*

a. The minimum storage capacity of a sediment trap shall be 134 cubic yards per acre of drainage area and the trap shall only control drainage areas less than three acres.

b. Surface runoff from disturbed areas that is comprised of flow from drainage areas greater than or equal to three acres shall be controlled by a sediment basin. The sediment basin shall be designed and constructed to accommodate the anticipated sediment loading from the land-disturbing activity. The outfall device or system design shall take into account the total drainage area flowing through the disturbed area to be served by the basin. The minimum storage capacity of a sediment basin shall be 134 cubic yards per acre of drainage area. The outfall system shall, at a minimum,

maintain the structural integrity of the basin during a 25-year storm of 24-hour duration. Runoff coefficients used in runoff calculations shall correspond to a bare earth condition or those conditions expected to exist while the sediment basin is utilized.

7. Cut and fill slopes shall be designed and constructed in a manner that will minimize erosion. Slopes that are found to be eroding excessively within one year of permanent stabilization shall be provided with additional slope stabilizing measures until the problem is corrected.

8. Concentrated runoff shall not flow down cut or fill slopes unless contained within an adequate temporary or permanent channel, flume or slope drain structure.

9. Whenever water seeps from a slope face, adequate drainage or other protection shall be provided.

10. All storm sewer inlets that are made operable during construction shall be protected so that sediment-laden water cannot enter the conveyance system without first being filtered or otherwise treated to remove sediment.

11. Before newly constructed stormwater conveyance channels or pipes are made operational, adequate outlet protection and any required temporary or permanent channel lining shall be installed in both the conveyance channel and receiving channel.

12. When work in a live watercourse is performed, precautions shall be taken to minimize encroachment, control sediment transport and stabilize the work area to the greatest extent possible during construction. Nonrodible material shall be used for the construction of causeways and cofferdams. Earthen fill may be used for these structures if armored by nonrodible cover materials.

13. When a live watercourse must be crossed by construction vehicles more than twice in any six-month period, a temporary vehicular stream crossing constructed of nonrodible material shall be provided.

14. All applicable federal, state and local regulations pertaining to working in or crossing live watercourses shall be met.

15. The bed and banks of a watercourse shall be stabilized immediately after work in the watercourse is completed.

16. Underground utility lines shall be installed in accordance with the following standards in addition to other applicable criteria:

a. No more than 500 linear feet of trench may be opened at one time.

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b. Excavated material shall be placed on the uphill side of trenches.

c. Effluent from dewatering operations shall be filtered or passed through an approved sediment trapping device, or both, and discharged in a manner that does not adversely affect flowing streams or off-site property.

d. *Material used for backfilling trenches shall be properly compacted in order to minimize erosion and promote stabilization.*

~~d.~~ e. Restabilization shall be accomplished in accordance with these regulations.

e. f. Applicable safety regulations shall be complied with.

17. Where construction vehicle access routes intersect paved *or* public roads, provisions shall be made to minimize the transport of sediment by vehicular tracking onto the paved surface. Where sediment is transported onto a *paved or* public road surface, the road *surface* shall be cleaned thoroughly at the end of each day. Sediment shall be removed from the roads by shoveling or sweeping and transported to a sediment control disposal area. Street washing shall be allowed only after sediment is removed in this manner. This provision shall apply to individual ~~subdivision~~ *development* lots as well as to larger land-disturbing activities.

18. All temporary erosion and sediment control measures shall be removed within 30 days after final site stabilization or after the temporary measures are no longer needed, unless otherwise authorized by the local program ~~administrator~~ *authority*. Trapped sediment and the disturbed soil areas resulting from the disposition of temporary measures shall be permanently stabilized to prevent further erosion and sedimentation.

19. Properties and waterways downstream from development sites shall be protected from sediment deposition, erosion and damage due to increases in volume, velocity and peak flow rate of stormwater runoff for the stated frequency storm of 24-hour duration in accordance with the following standards and criteria:

a. Concentrated stormwater runoff leaving a development site shall be discharged directly into an adequate natural or man-made receiving channel, pipe or storm sewer system. For those sites where runoff is discharged into a pipe or pipe system, downstream stability analyses at the outfall of the pipe or pipe system shall be performed.

b. Adequacy of all channels and pipes shall be verified in the following manner:

(1) The applicant shall demonstrate that the total drainage area to the point of analysis within the channel is one hundred times greater than the contributing drainage area of the project in question ; ; *or*

(2) (a) Natural channels shall be analyzed by the use of a two-year ~~frequency~~ storm to verify that stormwater will not overtop channel banks nor cause erosion of channel bed or banks ; ;

~~(3)~~ (b) All previously constructed man-made channels shall be analyzed by the use of a ten-year ~~frequency~~ storm to verify that stormwater will not overtop its banks and by the use of a two-year storm to demonstrate that stormwater will not cause erosion of channel bed or banks ; ; *and*

~~(4)~~ (c) Pipes and storm sewer systems shall be analyzed by the use of a ten-year ~~frequency~~ storm to verify that stormwater will be contained within the pipe or system.

c. If existing natural receiving channels or previously constructed man-made channels or pipes are not adequate, the applicant shall:

(1) Improve the channels to a condition where a ten-year ~~frequency~~ storm will not overtop the banks and a two-year ~~frequency~~ storm will not cause erosion to channel the bed or banks;

(2) Improve the pipe or pipe system to a condition where the ten-year ~~frequency~~ storm is contained within the appurtenances; *or*

(3) Develop a site design that will not cause the pre-development peak runoff rate from a two-year storm to increase when runoff outfalls into a natural channel or will not cause the pre-development peak runoff rate from a ten-year storm to increase when runoff outfalls into a man-made channel ; ; *or*

(4) Provide a combination of channel improvement, stormwater detention ~~retention~~ or other measures which is satisfactory to the plan-approving authority to prevent downstream erosion.

d. The applicant shall provide evidence of permission to make the improvements.

e. All hydrologic analyses shall be based on the existing watershed characteristics and the ultimate development condition of the subject project.

f. If the applicant chooses an option that includes stormwater detention ~~retention~~, he shall obtain approval from the locality of a plan for maintenance of the detention facilities. The plan shall set forth the maintenance requirements of the facility and the person responsible for performing

the maintenance.

g. Outfall from a detention facility shall be discharged to a receiving channel, and energy dissipators shall be placed at the outfall of all detention facilities as necessary to provide a stabilized transition from the facility to the receiving channel.

h. All on-site channels must be verified to be adequate.

g. i. Increased volumes of sheet flows that may cause erosion or sedimentation on adjacent property shall be diverted to a stable outlet, adequate channel, pipe or pipe system, or to a detention facility.

h. j. In applying these stormwater management criteria, individual lots or parcels in a residential subdivision, commercial or industrial development shall not be considered to be separate development projects. Instead, the residential subdivision development, as a whole, shall be considered to be a single development project. Hydrologic parameters that reflect the ultimate subdivision development condition shall be used in all engineering calculations.

i. Proposed commercial or industrial subdivisions shall apply these stormwater management criteria to the development as a whole. Hydrologic parameters that reflect the ultimate subdivision development shall be used in all engineering calculations.

k. All measures used to protect properties and waterways shall be employed in a manner which minimizes impacts on the physical, chemical and biological integrity of rivers, streams and other waters of the state.

§ [1-6. 5.] Variances.

The plan-approving authority may waive or modify any of the regulations that are deemed inappropriate or too restrictive for site conditions, by granting a variance. A variance may be granted under these conditions:

1. At the time of plan submission, an applicant may request a variance to become part of the approved erosion and sediment control plan. The applicant shall explain the reasons for requesting variances in writing. Specific variances which are allowed by the plan-approving authority shall be documented in the plan.

2. During construction, the person responsible for implementing the approved plan may request a variance in writing from the plan-approving authority. The plan-approving authority shall respond in writing either approving or disapproving such a request. If the

plan-approving authority does not approve a variance within 10 days of receipt of the request, the request shall be considered to be disapproved. Following disapproval, the applicant may resubmit a variance request with additional documentation.

3. The plan-approving authority shall consider variance requests judiciously, keeping in mind both the need of the applicant to maximize cost effectiveness and the need to protect off-site properties and resources from damage.

§ [1-7. 6.] Maintenance and inspections.

A. All erosion and sediment control structures and systems shall be maintained, inspected and repaired as needed to insure continued performance of their intended function. A statement describing the maintenance responsibilities of the permittee shall be included in the approved erosion and sediment control plan.

B. Periodic inspections are required on all projects by the enforcement program authority. ~~An~~ The program authority shall [either:

1.] Provide for an inspection ~~shall be made~~ during or immediately following initial installation of erosion and sediment controls, at least once in every two-week period, within 48 hours following any runoff producing storm event, and at the completion of the project prior to the release of any performance bonds [; or

2. Establish an alternative inspection program which ensures compliance with the approved erosion and sediment control plan. Any alternative inspection program shall be:

a. Approved by the board prior to implementation;

b. Established in writing;

c. Based upon a system of priorities that, at a minimum, address the amount of disturbed project area, site conditions and stage of construction; and

d. Documented by inspection records.]

§ [1-8. 7.] Residential subdivision development Developments .

A. An erosion and sediment control plan shall be filed for a residential development and the buildings constructed within, regardless of the phasing of construction.

B. If individual lots or sections in a residential development are being developed by different property owners, all land-disturbing activities related to the building construction shall be covered by an erosion and sediment control plan or an "Agreement in Lieu of a Plan" signed by the property owner.

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C. Land-disturbing activity of less than 10,000 square feet on individual lots in a residential development shall not be considered exempt from the provisions of the Act and these regulations if the total land-disturbing activity in the development is equal to or greater than 10,000 square feet

D. The construction of permanent roads or driveways that disturb in excess of 10,000 square feet and that serve more than one single-family residence separately built is not exempt from the requirements of the Act and these regulations.

§ [~~10~~ 8.] Criteria for determining status of land-disturbing activity.

A. A property owner who disturbs 10,000 square feet, or more, of land and claims that the activity is exempted from the requirements of the Act as shown in § 10.1-560 of the Code of Virginia shall have one year from the date of commencement of the activity to demonstrate to the erosion and sediment control enforcement authority that the activity is exempt. As soon as a nonexempt status is determined, the requirements of the Act shall be immediately enforced. The program administrator shall determine the validity of a claim of exempt status by a property owner who disturbs 10,000 square feet or more. As soon as a nonexempt status is determined, the requirements of the Act shall be immediately enforced.

B. Should a land-disturbing activity not begin during the 180-day period following plan approval or cease for more than 180 days, the plan-approval authority or the permit-issuing authority shall may evaluate the existing approved erosion and sediment control plan to determine whether the plan still satisfies local and state erosion and sediment control criteria and to verify that all design factors are still valid. If the authority finds the previously filed plan to be inadequate, a modified plan shall be submitted and approved prior to the resumption of land-disturbing activity.

C. Shore erosion control projects are not subject to these regulations. However, land-disturbing activity immediately outside the limits of the shore erosion project is subject to the Act and these regulations.

D. Whenever land-disturbing activity involves activity at a separate location (including but not limited to borrow and disposal areas), the program authority may either:

1. Consider the off-site activity as being part of the proposed land-disturbing activity; or
2. If the off-site activity is already covered by an approved erosion and sediment control plan, the program authority may require the applicant to provide proof of the approval and to certify that the plan will be implemented in accordance with the Act and these regulations.

§ [~~10~~ 9.] Review and evaluation of local programs: minimum program standards.

A. This section sets forth the criteria that will be used by the department to determine whether a local program operating under authority of the Act, satisfies minimum standards of effectiveness, as follows.

Each local program must contain an ordinance or other appropriate document(s) adopted by the governing body. Such document(s) must be consistent with the Act and [regulations () VR 625-02-00 and VR 625-02-01 ()] , including the following criteria:

1. The document(s) shall include or reference the definition of land-disturbing activity including exemptions, as well as any other significant terms, as necessary to produce an effective local program.
2. The document(s) shall identify the plan-approving authority and other positions of authority within the program, and must include the regulations and design standards to be used in the program.
3. The document(s) shall include procedures for submission and approval of plans, issuance of permits, monitoring and inspections of land-disturbing activities. The position, agency, department, or other party responsible for conducting inspections shall be identified. The local program authority shall maintain, either on-site or in local program files, a copy of the approved plan and a record of inspections for each active land-disturbing activity.
4. The local program authority must take appropriate enforcement actions to achieve compliance with the program and maintain a record of enforcement actions for all active land-disturbing activities.

B. The department staff, under authority of the board, shall periodically conduct a comprehensive review and evaluation of local programs. The review of a local program shall consist of the following: (i) personal interview between the department staff and the local program administrator or designee(s); (ii) review of the local ordinance and other applicable documents; (iii) review of plans approved by the program; (iv) inspection of regulated activities; and (v) review of enforcement actions.

C. Local programs shall be reviewed and evaluated for effectiveness in carrying out the Act using the criteria in this section. However, the director is not limited to the consideration of only these items when assessing the overall effectiveness of a local program.

D. If the director determines that the deficiencies noted in the review will cause the local erosion and sediment control program to be inconsistent with the state program and regulations, the director shall notify the local program authority concerning the deficiencies and provide

reasonable period of time for corrective action to be taken. If the program authority fails to take the corrective action within the specified time, the director may formally request board action pursuant to § 10.1-562 of the Code of Virginia.

E. Review and evaluation of local programs shall be conducted according to a schedule adopted by the board.

§ ~~1-10~~. [~~1-11~~ 10.] State agency projects.

A. All state agency land-disturbing activities that are not exempt and that have commenced without an approved erosion and sediment control plan shall immediately cease until an erosion and sediment control plan has been submitted to and approved by the department. A formal "Notice of Permit Plan Requirement" will be sent to the state agency under whose purview the project lies since that agency is responsible for compliance with the Act.

B. Where inspections by ~~division~~ department personnel reveal deficiencies in carrying out an approved plan, the person responsible for carrying out the plan, as well as the state agency responsible, will be issued a notice to comply with specific actions and the deadlines that shall be met. Failure to meet the prescribed deadlines can result in the issuance of a stop work order for all land-disturbing activities on the project at the discretion of the Chief Administrative Officer of the Board, who is authorized to sign such an order. The stop work order will be lifted once the required erosion and sediment control measures are in place and inspected by ~~division~~ department staff.

C. Whenever the Commonwealth or any of its agencies fails to comply within the time provided in an appropriate final order, the director of the department may petition for compliance as follows: For violations in the Natural Resources Secretariat, to the secretary of Natural Resources; for violations in other secretariats, to the appropriate Secretary; for violations in other state agencies, to the head of such agency. Where the petition does not achieve timely compliance, the director shall bring the matter to the Governor for resolution.

D. Where compliance will require the appropriation of funds, the director shall cooperate with the appropriate agency head in seeking such an appropriation; where the director determines that an emergency exists, he shall petition the Governor for funds from the Civil Contingency Fund or other appropriate source.

§ [~~1-12~~ 11.] Board adopted local erosion and sediment control programs.

A. To carry out its duties under § 10.1-562 of the Code of Virginia, the board shall develop, adopt, and administer an appropriate local erosion and sediment control program for the locality under consideration. In fulfilling these duties, the board shall assume the full powers of the local erosion and sediment control program granted by

law.

B. The board shall develop, adopt and administer a local erosion and sediment control program based on the minimum program standards established by these regulations and, as deemed appropriate by the board, may include any or all of the provisions provided by law and regulations including administrative fees and performance securities.

C. Upon adoption of a local erosion and sediment control program by the board, payment of moneys, including fees, securities, and penalties, shall be made to the state treasury.

D. When administering a local erosion and sediment control program the board may delegate to the director such operational activities as necessary. Further, the board may enter into agreements with other public or private entities to accomplish certain program responsibilities as it deems necessary to administer the local program.

VA.R. Doc. No. R95-269; Filed February 1, 1995, 11:04 a.m.

EDITOR'S NOTICE: The following appendix, Appendix A.1, is published as supplemental guidance to the regulation; however, it is not a part of the regulation, and will not be published in the Virginia Administrative Code.

APPENDIX A.1

REVIEW AND EVALUATION OF A LOCAL EROSION AND
SEDIMENT CONTROL PROGRAM

PART I: ADMINISTRATION

The following checklist shall be used in reviewing the administration component of a local erosion and sediment control program, minimum standards of effectiveness in accordance with §10.1-561 of the Code of Virginia and regulations VR 625-02-00 and VR 625-02-01.

- Locality has a certified Program Administrator or a person who meets the provisions in the definition of certified program administrator.

Ordinance:

** Denotes items that are required by state law or are deemed by the Board to be essential in order for the ordinance to meet minimum standards of program effectiveness.

- Authority section referencing state code

Definitions (Reference to §10.1-560)

- Applicant, owner, permittee, person, or other (as appropriate)
- Plan
- Program Authority
- Plan-approving Authority
- Certified Inspector
- Certified Program Administrator
- Certified Plan Reviewer

** Land-disturbing Activity:

** Exemptions

** Minor land-disturbing activities (landscaping, home lawnmowing, etc.)

CONTINUATION OF APPENDIX A.1

** Shore erosion control projects (not required for localities outside of the tidal zone)

** Emergency Work

Local Program

** Designate Plan-approving Authority

** Adopt Virginia Erosion and Sediment Control Regulations or more stringent standards as an integral part of the program.

** Designate design standards to be used in plan review and inspection (e.g., VESCH, local manual, etc.)

Regulated Land-disturbing Activities: Submission and Approval of Plans

** No land-disturbing activity allowed without an approved plan submitted in lieu of a plan

** Board option for plan approval of multi-jurisdictional projects

Appendix A.1-4

CONTINUATION OF APPENDIX A.1

** Individual service connections

** Underground utilities on hard surface roads

** Septic systems

** Mining

** Exploration for gas and oil

** Tilling, planting, harvesting, etc. for agriculture, silviculture, etc.

** Railroad repair, rebuilding, other facilities

** Agricultural engineering operations

** Less than 10,000 square feet area by residential

** Fence, post, poles, signs

Appendix A.1-5

CONTINUATION OF APPENDIX A.1

— Refund of security within 60 days of adequate stabilization

Monitoring/Inspections

— Locality must provide for periodic inspections

— ****** Notice of inspection given to responsible party

— ****** Procedures for issuing Notice to Comply

— ****** Designate inspector/inspection department

— Provisions for issuing stop work order and revoking permit

Appeals

— ****** Appeals must be filed within 30 days (minimum)

— Appeal district decision (if applicable)

Appendix A.1 - 6

CONTINUATION OF APPENDIX A.1

— ****** 45-day (maximum) plan review

— ****** Written response within 45 days

— Plan can be changed if

— Inspection reveals inadequacy (agreement not required)

— Controls are unnecessary due to changed circumstances, request for variance, etc. (plan-approving authority must approve)

— ****** Owner is responsible for plan

Approved plan required for issuance of permit, securities

— ****** No permits which authorize land-disturbing activity issued without approved erosion and sediment control plan

— ****** Certification to carry out plan

— Provision to require security

Appendix A.1 - 5

CONTINUATION OF APPENDIX A.1

Provisionally Consistent
 The program does not meet all the requirements; however, the locality has agreed to correct the deficiency(s) within a specified time period.

Consistent
 This rating applies to programs that contain all the required items in the checklist. This rating also applies to programs that contain references or operate in concert with other provisions which adequately satisfy the requirements.

CONTINUATION OF APPENDIX A.1

Judicial appeal

Penalties and Other Legal Actions

•• Class I Misdemeanor (not required if the locality has adopted a schedule of civil penalties)

Civil penalty

Civil fines

Administration Evaluation Guidelines

The following guidelines shall be used in evaluating the administration component of a local erosion and sediment control program.

Inconsistent
 One or more of the required items are not included.

Appendix A.1.1

Appendix A.1.1

CONTINUATION OF APPENDIX A.1

- Approved plans comply with state Minimum Standards for controlling erosion and the locally-adopted design criteria or an appropriate variance is granted.
- Locality maintains a copy of approved plan or agreement in lieu of plan until final stabilization is achieved.

CONTINUATION OF APPENDIX A.1

PART II: PLAN REVIEW

The following checklist shall be used in reviewing the plan review component of a local erosion and sediment control program. minimum standards of effectiveness in accordance with §10.1-561 of the Code of Virginia and regulations VR 625.02-02 and VR 625.02-01.

Required items for Local Plan Review.

- Plans are reviewed by certified plan reviewer or by a person who meets the provisions in the definition of a certified plan reviewer.
- Plans are reviewed within 45 days of receipt. Plans which are not deemed adequate are required to be revised prior to approval.
- Plan reviewer states in writing the reasons for disapproval and specifies the modifications, terms, and conditions that will permit approval of the plan.

CONTINUATION OF APPENDIX A.1

PART III. INSPECTION

The following checklist shall be used in reviewing the inspection component of a local erosion and sediment control program, minimum standards of effectiveness in accordance with §10.1-561 of the Code of Virginia and regulations VR 655.00 and VR 655.01.

Required Items of Local Inspection Program

- Inspections are performed by certified inspector or by a person who meets the provisions in the definition of a certified inspector.
- Inspectors are established through a methodology that works and is cost-effective.
- Inspectors are trained and certified.
- Inspectors are trained and certified.
- Inspectors are trained and certified.

CONTINUATION OF APPENDIX A.1

Plan Review Evaluation Guidelines

The following guidelines shall be used in evaluating the plan review component of the local erosion and sediment control program.

- **Inconsistent**
One or more of the required items are not included. This rating also applies to programs in which plans are not required pursuant to §10.1-561.
- **Provisionally Consistent**
The program does not meet all the requirements; however, the local authority has agreed to correct the deficiencies within a specified time period.
- **Consistent**
This rating applies to programs that meet all the requirements of the Code of Virginia and the regulations. This rating also applies to programs that meet all the requirements of the Code of Virginia and the regulations. This rating also applies to programs that meet all the requirements of the Code of Virginia and the regulations.

CONTINUATION OF APPENDIX A.1

- Inconsistent
One or more of the required items are not included.
- Provisionally Consistent
The program does not meet all the requirements; however, the locality has agreed to correct the deficiency(ies) within a specified time period.
- Consistent
This rating applies to programs that contain all the required items in the checklist. This rating also applies to programs that contain reference or operate in concert with other provisions which adequately satisfy the requirements.

Appendix A.1 - 14

CONTINUATION OF APPENDIX A.1

- Inspections are conducted within 48 hours of runoff-producing storm events.
- If no describe the local inspection procedures and evaluate the effectiveness.
- Inspections are documented on report/violation forms, inspection diary, etc.
Documentation includes project name, date, violations, and other essential information.
- Record of inspections assures quality of inspections is adequate by noting all violations, deadlines for correcting violations, and changes or maintenance that are required. Department staff verify (periodically or during program review process) that inspections ensure compliance with program standards.

Inspection Evaluation Guidelines

The following guidelines shall be used in evaluating the inspection component of a local erosion and sediment control program.

Appendix A.1 - 15

CONTINUATION OF APPENDIX A.1

PART IV: ENFORCEMENT

The following checklist shall be used in reviewing the enforcement component of a local erosion and sediment control program, minimum standards of effectiveness in accordance with §10.1-561 of the Code of Virginia and regulations VR 625-02-00 and VR 625-02-01.

Required items for the Local Enforcement Program:

- Locality maintains record of written notification of violations. Notification must be in accordance with Virginia Erosion and Sediment Control law.
- Notice to Comply orders contain specific measures or corrections which need to be made and specify deadlines for completion.
- Stop Work Orders, court action, bond revocation, or other appropriate actions are initiated after notice to comply deadline has passed without compliance with the order.

CONTINUATION OF APPENDIX A.1

Enforcement Evaluation Guidelines

The following guidelines shall be used in evaluating the enforcement component of a local erosion and sediment control program.

- Inconsistent
One or more of the required items are not included. This rating also applies to programs that do not consistently initiate enforcement action when needed and/or Board has had to take enforcement action due to lack of local enforcement.
- Provisionally Consistent
The program does not meet all the requirements; however, the locality has agreed to correct the deficiency(s) within a specified time period.
- Consistent
This rating applies to programs that contain all the required items in the checklist, and program requirements are consistently enforced by a written notice, notice to comply, stop work order, or other appropriate action. This rating also applies to programs that contain, reference, or operate in concert with other provisions which adequately satisfy the requirements.

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* * * * *

Title of Regulation: VR 625-02-01. Erosion and Sediment Control Certification Regulations.

Statutory Authority: §§ 10.1-502 and 10.1-561 of the Code of Virginia.

Effective Date: March 22, 1995.

Summary:

The regulations establish minimum statewide standards for the certification of erosion and sediment control plan reviewers, inspectors, and program administrators. The regulations provide four classifications of certification: Program Administrator, Plan Reviewer, Inspector, and Combined Administrator. In addition, the regulations provide for eligibility requirements, fees, examinations, applications, and discipline of certified personnel.

Training will be based upon the Erosion and Sediment Control Law and attendant regulations which establish minimum statewide standards for the control of soil erosion, sediment deposition and nonagricultural runoff from land-disturbing activities that must be met in local erosion and sediment control programs, and also by state agencies that conduct land-disturbing activities. Land-disturbing activities include, but are not limited to, clearing, grading, excavating, transporting and filling of land.

Certification will be based upon completion of the training programs, work experience or combination thereof, plus obtaining a passing grade on the certification test. Recertification and decertification are also covered by the regulations.

Summary of Public Comment and Agency Response: A summary of comments made by the public and the agency's response may be obtained from the promulgating agency or viewed at the office of the Registrar of Regulations.

Agency Contact: Copies of the regulation may be obtained from James P. Edmonds, Department of Conservation and Recreation, 203 Governor Street, Suite 206, Richmond, VA 23219, telephone (804) 786-3997.

VR 625-02-01. Erosion and Sediment Control Certification Regulations.

§ 1. Definitions.

The following words and terms, when used in these regulations, shall have the following meanings, unless the context clearly indicates otherwise.

"Act" means the Erosion and Sediment Control Law, Article 4 (§ 10.1-560 et seq.) of Chapter 5 of Title 10.1 of

the Code of Virginia.

"Applicant" means any person submitting a request to be considered for certification.

"Board" means the Virginia Soil and Water Conservation Board.

"Certification" means the process whereby the board, on behalf of the Commonwealth, issues a certificate to persons who have completed training programs or in other ways demonstrated adequate knowledge in the specified subject areas.

"Certified combined administrator" means an employee or agent of a program authority who: (i) holds a certificate of competence from the board in the combined areas of program authority, plan review, and project inspection; or (ii) is enrolled in the board's training program for program administrator, plan reviewer, and project inspection and successfully completes such program within one year after enrollment.

"Certified inspector" means an employee or agent of a program authority who: (i) holds a certificate of competence from the board in the area of project inspection; or (ii) is enrolled in the board's training program for project inspection and successfully completes such program within one year after enrollment.

"Certified plan reviewer" means an employee or agent of a program authority who: (i) holds a certificate of competence from the board in the area of plan review; (ii) is enrolled in the board's training program for plan review and successfully completes such program within one year after enrollment; or (iii) is licensed as a professional engineer, architect, certified landscape architect or land surveyor pursuant to Article 1 (§ 54.1-400 et seq.) of Chapter 4 of Title 54.1 of the Code of Virginia.

"Certified program administrator" means an employee or agent of a program authority who: (i) holds a certificate of competence from the board in the area of program administration; or (ii) is enrolled in the board's training program for program administrator and successfully completes such program within one year after enrollment.

"Classification" refers to the four specific subject areas that make up activities being performed (program administrator, plan reviewer, inspector, and combined).

"Combined administrator" means anyone who is responsible for performing the combined duties of a program administrator, plan reviewer and project inspector of a program authority.

"Department" means the Department of Conservation and Recreation.

"Erosion and Sediment Control Plan," "conservation plan" or "plan," means a document containing material for the conservation of soil and water resources of a unit or group of units of land. It may include appropriate maps, an appropriate soil and water plan inventory and management information with needed interpretations, and a record of all decisions contributing to conservation treatment. The plan shall contain all major conservation decisions and all information deemed necessary by the plan-approving authority to assure that the entire unit or units of land will be so treated to achieve the conservation objective.

"Inspector" means anyone who, as a representative of a program authority, is responsible for periodically examining the erosion and sediment control activities and premises of a land-disturbing activity for consistency with the Erosion and Sediment Control Law and Regulations.

"Plan reviewer" means anyone who is responsible for determining the accuracy of erosion and sediment control plans and supporting documents for approval by a program authority.

"Program administrator" means the person or persons responsible for administering and enforcing the erosion and sediment control program of a program authority.

"Program authority" means a soil and water conservation district, county, city or town which has adopted an erosion and sediment control program which has been approved by the board.

"State erosion and sediment control program" or "state program" means the program administered by the board through the Director of the Department of Conservation and Recreation pursuant to the Erosion and Sediment Control Law and VR 625-02-00, Erosion and Sediment Control Regulations.

§ 2. Purpose.

The purpose of these regulations is to guide the issuance of certificates of competence required by § 10.1-561 of the Act.

§ 3. Applicability.

These regulations are applicable to:

1. Every program authority that administers an erosion and sediment control program. Staff of program authority must be certified in accordance with § 10.1-561.1 of the Act.
2. Anyone who is contracted by a program authority to perform any or all of the functions of that authority. This person will be subject to the same certification requirements as the authority.
3. Anyone voluntarily seeking certificates of

competence from the board for classifications described in § 4 of these regulations.

§ 4. Certificates of competence.

A. Certificates of competence shall be issued by the board for the following classifications:

1. Program administrator. The person or persons employed as the erosion and sediment control program administrator.
2. Plan reviewer. The person or persons who review conservation plans to be approved by the program authority.
3. Inspector. The person or persons responsible for inspecting erosion and sediment control practices to ensure compliance with the Virginia Erosion and Sediment Control Law and Regulations.
4. Combined administrator. The person or persons responsible for the combined duties of administration, plan review and inspection of regulated activities of a local program authority.

B. Any person employed as a plan reviewer who is licensed as a professional engineer, architect, certified landscape architect or land surveyor pursuant to Article 1 (§ 54.1-400 et seq.) of Chapter 4 of Title 54.1 shall qualify as a certified plan reviewer and will not require a certificate of competence from the board.

C. Any person who holds a level II certificate of competence from the board in areas of plan review, project inspection or as a program administrator which was obtained prior to adoption of the mandatory certification as specified in § 10.1-561.1 B of the Act shall be deemed to satisfy the requirements of that area of certification. Any certification obtained before the adoption of the mandatory program which satisfies the requirements will be valid until its previously scheduled expiration date.

§ 5. Eligibility requirements.

A. Certification may be obtained by satisfactorily completing and submitting an application to the department for review and approval and:

1. By obtaining a total of six months of experience (880 hours) as a plan reviewer, inspector or combined duties and obtaining a passing score on the certification examination administered by the department; or
2. By enrolling in and completing a board-approved training program in the areas of program administrator, plan reviewer, inspector, or combined administrator within 12 months of the time of enrollment (starting with the first training course

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enrolled) and obtaining a passing score on the certification examination.

a. The training program for inspectors will consist of attending and completing courses/seminars in "Basic Erosion and Sediment Control in Virginia" and "Erosion and Sediment Control for Inspectors."

b. The training program for plan reviewers will consist of attending and completing courses/seminars in "Basic Erosion and Sediment Control in Virginia" and "Erosion and Sediment Control for Plan Reviewers."

c. The training program for program administrators will consist of attending the seminar "Basic Erosion and Sediment Control in Virginia."

d. The training program for combined administrators will consist of attending the courses/seminars in "Basic Erosion and Sediment Control in Virginia," "Erosion and Sediment Control for Inspectors," and "Erosion and Sediment Control for Plan Reviewers."

B. Certification shall be valid for three years and will expire on the last day of the expiration month.

C. Recertification may be obtained for classifications outlined in § 4 of these regulations prior to the expiration of a certification by:

1. Obtaining a passing score on the certification examination; or

2. Successfully completing a board-approved training program.

§ 6. Fees.

A. Application and recertification fees shall be collected to cover the administrative cost for the certification program.

B. A fee will also be charged to present education and training programs which support the certification program.

C. Fees are nonrefundable and shall not be prorated.

§ 7. Examination.

A. A board-approved examination shall be administered at least twice a year.

B. An individual may take the certification examination for the desired certificate of competence after fulfilling the prerequisite experience requirement or completing a board-approved training program in accordance with § 5 of these regulations.

C. An individual who is unable to take an examination at the time scheduled shall notify the department within 48 hours prior to the date of the examination; such an individual shall be rescheduled for the next examination. Failure to notify the department may require the individual to submit a new application and payment of fees in accordance with these regulations.

D. An applicant who is unsuccessful in passing an examination will be allowed to pay the appropriate fee and retake the appropriate exam within one year without resubmitting an application. After the one-year period has elapsed, an applicant will be required to submit a new application with the appropriate fee in accordance with these regulations in order to take the examination. Application for examination must be received at least 60 days prior to the scheduled examination by the department to be eligible to sit for the examination.

E. An acceptable passing score of 70% will be required on the appropriate certification exam.

F. All applicants will be notified in writing within 60 days of the results of the examination.

§ 8. Application.

A. Any person seeking certification by a combination of experience and examination or by the combination of completion of the training program and examination shall submit a completed application with the appropriate fee(s) attached. The application shall contain the following:

1. The applicant's name, address, daytime phone number, social security number, name and address of business as well as the date the application was filled out.

2. The classification of certification applying for as set forth in § 4 of these regulations, and if applying for initial certification or recertification.

3. If any special arrangements must be provided for because of a handicap.

4. A verification of all work experience signed and dated by applicant's employer.

5. A signed and notarized affidavit confirming that all statements in the application are believed to be true.

Incomplete applications will be returned to the applicant. All applications must be received in the appropriate department office or by mail post marked at least 60 days prior to the scheduled examination date in order to be able to sit for the examination.

B. All applications of candidates will be reviewed by the department to determine eligibility for certification. All applicants will be notified of the results of the review within 30 days of receipt of the application. Any applicant

may appeal the review, in writing, to the board within 30 days of the department's determination. No applicant will be approved for certification unless they meet all the requirements of these regulations.

C. Applicants who have been found ineligible to sit for an examination may request further consideration by submitting a letter to the board with the necessary evidence of additional qualifications. No additional fee will be required provided that all requirements for certification are met within one year from the date of the original application.

§ 9. Discipline of certified personnel.

The board may suspend, revoke or refuse to grant or renew the certification of any person if the board, in an informal fact finding under § 9-6.14:11 of the Code of Virginia, finds that:

1. The certification was obtained or renewed through fraud or misrepresentation;
2. The certified person has violated or cooperated with others in violating any provision of these regulations;
3. The certified person has not demonstrated reasonable care, judgment, or application of his knowledge and ability in the performance of his duties; or
4. The certified person has made any material misrepresentation in the course of performing his duties.

VA.R. Doc. No. R95-270; Filed February 1, 1995, 11:06 a.m.

STATE CORPORATION COMMISSION

AT RICHMOND, JANUARY 18, 1995

COMMONWEALTH OF VIRGINIA, ex rel.

STATE CORPORATION COMMISSION

CASE NO. PUC850035

Ex Parte: Investigation of
competition for intraLATA,
interexchange telephone service

ORDER INVITING FURTHER COMMENTS

Pursuant to the Commission's Interim Order of June 30, 1986, the provision of intraLATA, interexchange telephone services has been restricted to the certificated local exchange telephone companies ("LECs"). Since that time, telecommunications markets have undergone significant changes, but the Bell Operating Companies ("BOCs") and the General Telephone Operating Companies ("GTOCs") are still prohibited by federal consent decrees from engaging in interLATA, interexchange business.

A number of parties have requested the Commission to consider lifting its ban on intraLATA, interexchange competition. In light of this, and the availability of additional relevant information since comments were last received in 1990, the Commission invites further comments on intraLATA competition from any interested party.

The Commission is particularly interested in comments on whether it is now in the public interest to permit certificated interexchange carriers ("IXCs") to offer intraLATA, interexchange telephone services, including a discussion of any relevant changes that have occurred since comments were last received in March of 1990.

In its June 30, 1986, Interim Order, the Commission adopted the three-phase approach urged by the Staff Position Report of December 2, 1985. Phase One retained the status quo for LECs to be the only certificated providers of intraLATA service. This phase was to allow LECs to prepare for eventual intraLATA competition by reconfiguring their toll tariffs and developing cost allocations to prevent cross-subsidies. Phase Two would allow all providers to furnish intraLATA toll services and to set rates competitively. However, toll rates would not be allowed to rise above prevailing levels, LECs would not be allowed to abandon any toll routes, and data would be submitted for monitoring. In Phase Three, the caps on toll rates would be removed, and the need for continued monitoring would be reviewed.

The Order stated "Phase One will continue until we are assured that the loss of intraLATA revenues will not be detrimental to rates for local service and until the RBHCs or C&P [now Bell Atlantic - Virginia] are allowed to participate in the interLATA market." 1986 S.C.C. Ann. Rept. 225, 226. The Commission is interested in comments on both of these issues, as well as whether we should

await the finalization of pending federal legislation that would allow all carriers to offer interLATA, interexchange service.

Given today's circumstances, the Commission would like comments concerning whether, if it authorizes intraLATA competition, we should move into Phase Two or move directly into Phase Three.

Because of the related issues involving access pricing, the Commission would also like comments discussing whether intraLATA competition can be authorized prior to proceeding with access pricing issues in Case No. PUC880042, or whether it is advisable for the access charge issues to be incorporated into this docket. Further, the Commission is interested in knowing what IXCs would do with any cost savings if access prices were reduced as a result of authorizing intraLATA competition.

As before, the Commission would like comments addressing whether there should be presubscription if intraLATA competition is allowed, and if so, how presubscription should be implemented.

Finally, in view of the different regulatory rules governing the potential participants (large local exchange companies, small investor-owned companies, cooperatives, certificated interexchange carriers, and resellers), the Commission would like comments regarding which procedures or practices would have to be followed or altered to effect fair competition among all participants.

Accordingly,

IT IS THEREFORE ORDERED:

(1) That any person desiring to submit comments about the advisability of permitting competition for intraLATA, interexchange telephone service within Virginia send those comments to the Clerk of the Commission, c/o Document Control Center, P.O. Box 2118, Richmond, Virginia 23216 on or before February 24, 1995, referring to Case No. PUC850035. Any corporation shall be represented by counsel in accordance with Rule 4:8 of the Commission's Rules of Practice and Procedure and shall file an original and fifteen (15) copies of any comments. Individuals may file single copies. Comments should address the items above, but may also discuss any issue the commenting party considers pertinent; and

(2) That this matter is continued generally pending further Commission order.

Commissioner Moore did not participate in this matter.

AN ATTESTED COPY hereof shall be sent by the Clerk of the Commission to each local exchange telephone company operating in Virginia as set out in Appendix A attached hereto; each certificated interexchange carrier operating in Virginia as set out in Appendix B attached hereto; the Division of Consumer Counsel, Office of the

Attorney General, 900 East Main Street, Richmond, Virginia 23219; Jean Ann Fox, President, Virginia Citizens Consumer Counsel, 114 Coachman Drive, Yorktown, Virginia 23693; Cecil O. Simpson, Jr., Esquire, Office of the Judge Advocate General, Department of the Army, 901 North Stuart Street, Room 400, Arlington, Virginia 22203-1837; Ronald B. Mallard, Director, Department of Consumer Affairs, County of Fairfax, 12000 Government Center Parkway, Fairfax, Virginia 22035; Mr. Charles R. Smith, Hello, Inc., 2315 West Broad Street, Richmond, Virginia 23220; James C. Roberts, Esquire, Virginia Cable Television Association, Mays & Valentine, P.O. Box 1122, Richmond, Virginia 23208-1122; the Commission's Office of General Counsel, and the Commission's Divisions of Communications, Public Utility Accounting, and Economics and Finance.

Clifton Forge-Waynesboro Telephone Company
Mr. James S. Quarforth, President
P. O. Box 1990
Waynesboro, Virginia 22980-1990

Contel of Virginia, Inc.
Stephen C. Spencer, Reg. Director
External Affairs
One James Center
901 East Cary Street
Richmond, Virginia 23219

GTE South
Stephen C. Spencer, Reg. Director
External Affairs
One James Center
901 East Cary Street
Richmond, Virginia 23219

Appendix A

TELEPHONE COMPANIES IN VIRGINIA

Amelia Telephone Corporation
Mr. Bruce H. Mottern, Director
State Regulatory Affairs
P.O. Box 22995
Knoxville, Tennessee 37933-0995

Amelia Telephone Corporation
Ms. Joy Brown, Manager
P. O. Box 76
Amelia, Virginia 23002

Buggs Island Telephone Cooperative
Mr. M. Dale Tetterton, Jr., Manager
P. O. Box 129
Bracey, Virginia 23919

Burke's Garden Telephone Exchange
Ms. Sue B. Moss, President
P. O. Box 428
Burke's Garden, Virginia 24608

Central Telephone Company of Virginia
Mr. Martin H. Bocock
Vice President and General Manager
P. O. Box 6788
Charlottesville, Virginia 22906

Chesapeake & Potomac Telephone Company
Mr. Hugh R. Stallard, President
and Chief Executive Officer
600 East Main Street
P.O. Box 27241
Richmond, Virginia 23261

Citizens Telephone Cooperative
Mr. James R. Newell, Manager
Oxford Street
P. O. Box 137
Floyd, Virginia 24091

GTE
Joe W. Foster, Esquire
Law Department
P.O. Box 110 - FLTC0007
Tampa, Florida 33601-0110

Highland Telephone Cooperative
Mr. Elmer E. Halterman, General Manager
P.O. Box 340
Monterey, Virginia 24465

Mountain Grove-Williamsville
Telephone Company
Mr. L. Ronald Smith
President/General Manager
P. O. Box 105
Williamsville, Virginia 24487

New Castle Telephone Company
Mr. Bruce H. Mottern, Director
State Regulatory Affairs
P.O. Box 22995
Knoxville, Tennessee 37933-0995

New Hope Telephone Company
Mr. K. L. Chapman, Jr., President
P. O. Box 38
New Hope, Virginia 24469

North River Telephone Cooperative
Mr. C. Douglas Wine, Manager
P. O. Box 236, Route 257
Mt. Crawford, Virginia 22841-0236

Pembroke Telephone Cooperative
Mr. Stanley G. Cumbee, General Manager
P. O. Box 549
Pembroke, Virginia 24136-0549

Peoples Mutual Telephone Company, Inc.
Mr. E. B. Fitzgerald, Jr.
President & General Manager

State Corporation Commission

P. O. Box 367
Gretna, Virginia 24557

Roanoke & Botetourt Telephone Company
Mr. Allen Layman, President
Daleville, Virginia 24083

Scott County Telephone Cooperative
Mr. William J. Franklin
Executive Vice President
P. O. Box 487
Gate City, Virginia 24251

Shenandoah Telephone Company
Mr. Christopher E. French, President
P. O. Box 459
Edinburg, Virginia 22824

United Telephone-Southeast, Inc.
Mr. H. John Brooks
Vice President & General Manager
112 Sixth Street, P. O. Box 699
Bristol, Tennessee 37620

Virginia Telephone Company
Mr. Bruce H. Mottern, Director
State Regulatory Affairs
P.O. Box 22995
Knoxville, Tennessee 37933-0995

1108 East Main Street, Suite 1200
Richmond, Virginia 23219-3535

Citizens Telephone Cooperative
Mr. James R. Newell, Manager
Oxford Street
P.O. Box 137
Floyd, Virginia 24091

Contel of Virginia, Inc.
Mr. Stephen Spencer
Regional Director-External Affairs
One James Center
901 East Cary Street
Richmond, Virginia 23219

Institutional Communications Company - Virginia
Ms. Dee Kindel
8100 Boone Boulevard, Suite 500
Vienna, Virginia 22182

MCI Telecommunications Corp. of Virginia
Robert C. Lopardo
Senior Attorney
1133 19th Street, N.W., 11th Floor
Washington, D.C. 20036

Metromedia Communications Corporation
d/b/a LDDSMetromedia Communications
Mr. Joseph Kahl, Manager
Regulatory Affairs
One Meadowlands Plaza
East Rutherford, New Jersey 07073

Appendix B

INTER-EXCHANGE CARRIERS

Access Transmission Services of Virginia, Inc.
Mr. Gordon P. Williams, Jr.
Office of General Counsel
MCI Telecommunications
2400 North Glenville Drive
Richardson, Texas 75082

AlterNet of Virginia
Mr. Leonard J. Kennedy, Counsel
Dow, Lohnes & Albertson
1255 Twenty-Third Street
Washington, D.C. 20037-1194

AT&T Communications of Virginia
Ms. Wilma R. McCarey, General Attorney
3033 Chain Bridge Road, Room 3D
Oakton, Virginia 22185-0001

CF-W Network Inc.
Mr. James S. Quarforth, President
P. O. Box 1990
Waynesboro, Virginia 22980-1990

Central Telephone Company of Virginia
Mr. James W. Spradlin, III
Director, External Affairs
Government & Industry Relations

R&B Network, Inc.
Mr. Allen Layman, Executive Vice President
P. O. Box 174
Daleville, Virginia 24083

Scott County Telephone Cooperative
Mr. James W. McConnell, Manager
P.O. Box 487
Gate City, Virginia 24251

Shenandoah Telephone Company
Mr. Christopher E. French
President & General Manager
P. O. Box 459
Edinburg, Virginia 22824

SouthernNet of Va., Inc.
Peter H. Reynolds, Director
780 Douglas Road, Suite 800
Atlanta, Georgia 30342

TDX Systems, Inc.
d/b/a Cable and Wireless, Inc.
Mr. Charles A. Tievsky, Manager
Legal and Regulatory Affairs
1919 Gallows Road
Vienna, Virginia 22182

Sprint Communications of Virginia, Inc.
Mr. Kenneth Prohoniak
Staff Director, Regulatory Affairs
1850 "M" Street, N.W. Suite 110
Washington, DC 20036

Virginia MetroTel, Inc.
Mr. Richard D. Gary
Hunton & Williams
Riverfront Plaza, East Tower
951 East Byrd Street
Richmond, Virginia 23219-4074

Wiltel of Virginia
Brad E. Mutschelknaus, Esquire
Wiley, Rein and Fielding
1776 K Street, N.W.
Washington, DC 20006

V.A.R. Doc. No. R95-258; Filed January 23, 1995, 1:47 p.m.

* * * * *

FINAL REGULATION

BUREAU OF INSURANCE

Title of Regulation: Insurance Regulation No. 41. Rules Establishing Standards for Life, Annuity, and Accident and Sickness Reinsurance Agreements.

Statutory Authority: §§ 12.1-13, 38.2-223, and 38.2-1316.7 of the Code of Virginia.

Agency Contact: Copies of the regulation may be obtained from Ms. Jarrett Goodwin, State Corporation Commission, Bureau of Insurance, P.O. Box 1197, Richmond, VA 23209, telephone (804) 371-9365. Copying charges are \$1.00 for the first two pages, and 50¢ for each page thereafter.

AT RICHMOND, JANUARY 26, 1995

COMMONWEALTH OF VIRGINIA

At the relation of the

STATE CORPORATION COMMISSION

CASE NO. INS940204

Ex Parte: In the matter of adopting revised Rules Establishing Standards for Life, Annuity, and Accident and Sickness Reinsurance Agreements

ORDER ADOPTING REGULATION

WHEREAS, by order entered herein October 20, 1994,

all interested persons were ordered to take notice that the Commission would enter an order subsequent to November 25, 1994, adopting a revised regulation proposed by the Bureau of Insurance unless on or before November 25, 1994, any person objecting to the adoption of the regulation filed a request for a hearing with the Clerk of the Commission;

WHEREAS, the American Council of Life Insurance filed a timely request for a hearing, which was subsequently withdrawn, and comments to the proposed regulation; and

THE COMMISSION, having considered the proposed regulation and the comments of interested persons, is of the opinion that the regulation, as amended, should be adopted;

THEREFORE, IT IS ORDERED that the regulation entitled "Revised Rules Establishing Standards for Life, Annuity, and Accident and Sickness Reinsurance Agreements" which is attached hereto should be, and it is hereby, ADOPTED to be effective April 1, 1995.

AN ATTESTED COPY hereof shall be sent by the Clerk of the Commission to the Bureau of Insurance in care of Deputy Commissioner Alfred W. Gross, who shall forthwith give further notice of the adoption of the regulation by mailing a copy of this order, together with a copy of the regulation, without editing marks, to all insurers, health services plans, and health maintenance organizations licensed to write life, annuity, or accident and sickness insurance in the Commonwealth of Virginia.

Insurance Regulation No. 41. Rules Establishing Standards for Life, Annuity, and Accident and Sickness Reinsurance Agreements.

§ 1. Authority.

This Regulation is adopted and promulgated by the Commission pursuant to Virginia Code §§ 12.1-13, 38.2-223 and 38.2-1316.7.

[§ 1. Definitions.

The following words and terms, when used in this regulation, shall have the following meaning unless the context clearly indicates otherwise:

"Commission" means State Corporation Commission.

"Insurer" means a cooperative nonprofit life benefit company, a mutual assessment life, accident and sickness insurer, a fraternal benefit society, a health services plan, a dental services plan, or an optometric services plan licensed under Title 38.2 of the Code of Virginia; and also any insurance company, whether known as a life and health insurer, a property and casualty insurer, or a reciprocal, which is licensed in Virginia and authorized to write any class of life insurance, annuities, or accident and sickness insurance.

State Corporation Commission

"Life and health business" means (i) a class of insurance defined by §§ 38.2-102 through 38.2-109 of the Code of Virginia or (ii) any product or service sold or offered by a person organized and licensed in Virginia under Chapter 38 (§ 38.2-3800 et seq., cooperative nonprofit life benefit companies), Chapter 39 (§ 38.2-3900 et seq., mutual assessment life, accident and sickness insurers), Chapter 41 (§ 38.2-4100 et seq., fraternal benefit societies), Chapter 42 (§ 38.2-4200 et seq., health services plans) or Chapter 45 (§ 38.2-4500 et seq., dental or optometric services plans) of Title 38.2 of the Code of Virginia.]

§ 2. [2.] Purpose.

[A.] The purpose of this regulation is [: (i)] to set forth standards for reinsurance agreements involving life [insurance, annuities, or accident and sickness insurance and health business] in order that the financial statements of the life and health insurers utilizing such agreements properly reflect the financial condition of the ceding insurer [: ; (ii) to B. The commission recognizes recognize] that life and health insurers offering life insurance, annuities, or accident and sickness insurance routinely enter into reinsurance agreements that yield legitimate relief to the ceding insurer from strain to surplus [: ; and (iii) to remind insurers that C. The commission has become aware that some] life and health [insurers, in the capacity of ceding insurers, have at times entered into reinsurance agreements, for the principal purpose of producing significant surplus aid for the ceding insurer, which provide little or no indemnification of policy benefits by the reinsurer. However,] it is improper for a licensed insurer, in the capacity of ceding insurer, to enter into reinsurance agreements for the principal purpose of producing significant surplus aid for the ceding insurer, typically on a temporary basis, while not transferring all of the significant risks inherent in the business being reinsured. In substance or effect, the expected potential liability to the ceding insurer remains basically unchanged by the reinsurance transaction, notwithstanding certain risk elements in the reinsurance agreement, such as catastrophic mortality or extraordinary survival.

[In addition, the commission is concerned with reserve credits taken under reinsurance agreements which provide some indemnification of policy benefits where those policy benefits are not included in the gross reserves established by the ceding insurer] such as catastrophic mortality or extraordinary survival [:]

The commission believes that insurers should be precluded from claiming the surplus relief created by the terms of such agreements as referred to herein and described in § 4 [3 4] of this regulation, since the recognition of such surplus would be in conflict with:

(1) 1. The provisions of Virginia Code §§ 38.2-1300 and 38.2-1301 of the Code of Virginia requiring insurers to file financial statements and reports that disclose full and accurate knowledge of their affairs and condition;

(2) 2. The provisions of Article 3.1 ; (§ 38.2-1316.1 et seq.) of Chapter 13 of Title 38.2 of the Code of Virginia relating to reinsurance reserve credits and a ceding insurer's ability to reduce liabilities or establish assets for reinsurance ceded; and

(3) 3. The provisions of Virginia Code §§ 38.2-1038 and 38.2-1040 of the Code of Virginia concerning the manner in which the commission may respond to an insurer whose condition or continued operation may be hazardous to policyholders, creditors and the public in this Commonwealth.

§ 3. [3.] Scope [and definitions].

A. This regulation shall apply to [the life and health business of] all domestic life and health insurers ["insurers" insurers] and to [the life and health business of] all other licensed life and health insurers ["insurers" insurers] who are not subject to substantially similar provisions in their states of domicile or entry.

B. For purposes of this Regulation,

(1) "Life and health" and "life or health" mean (i) a class of insurance defined by Virginia Code § 38.2-102 through § 38.2-109 or (ii) any product or service sold or offered by a person organized and licensed in Virginia under Chapter 38 (cooperative nonprofit life benefit companies) Chapter 39 (mutual assessment life, accident and sickness insurers), Chapter 42 (health services plans) or Chapter 45 (dental and optometric services plans) of Title 38.2 of the Code of Virginia.

(2) "Insurer" [As used in this regulation, "insurer" means] an insurance company or [a cooperative nonprofit life benefit company] or [; a mutual assessment life, accident and sickness insurer] or [; a fraternal benefit society, a health services plan] or [; a dental services plan ; or an optometric services plan] as those terms are defined in [licensed under Title 38.2 of the Code of Virginia ; and also any insurance company (whether known as a life and health insurer, a property and casualty insurer, or a reciprocal) which is licensed in Virginia and authorized to write any class of life insurance, annuities, or accident and sickness insurance :]

This regulation shall not apply to assumption reinsurance, yearly renewable term reinsurance or certain nonproportional reinsurance such as stop loss or catastrophe reinsurance; however, nothing herein shall in any way limit or prevent the application of § 38.2-1316.6 or any other provision in Title 38.2 of the Code of Virginia to any type of insurer, business or reinsurance regardless of whether such application entails a standard or principle set forth in this regulation.]

§ 4. [3. 4.] Accounting and actuarial requirements.

A. No life or health insurer subject to this regulation

shall, for reinsurance ceded, reduce any liability or establish any asset in any financial statement filed with the commission if, by the terms of the reinsurance agreement, in substance or effect, any of the following conditions exist:

(1) The primary effect of the reinsurance agreement is to transfer deficiency reserves or excess interest reserves to the books of the reinsurer for a "risk charge" and the agreement does not provide for significant participation by the reinsurer in one or more of the following risks: mortality, morbidity, investment, or persistency;

(2) 1. The reserve credit taken by the ceding insurer is not in compliance with the laws of this Commonwealth, particularly the provisions of Title 38.2 of the Code of Virginia and related rules, regulations and administrative pronouncements, including actuarial interpretations or standards adopted by the commission ; .

(3) 2. The reserve credit taken by the ceding insurer is greater than the amount which the ceding insurer would have reserved on the reinsured portion of the risk if there had been no reinsurance ; .

(4) 3. The ceding insurer is required to reimburse the reinsurer for negative experience under the reinsurance agreement, except that neither offsetting experience refunds against current and prior years' losses [*under the agreement*] nor payment by the ceding insurer of an amount equal to the current and prior years' losses [*under the agreement*] upon voluntary termination of in-force reinsurance by that ceding insurer, shall be considered such a reimbursement to the reinsurer for negative experience [; provided, however, that any offsetting provisions (i) shall be limited to such reinsurance agreement, (ii) are specifically between the ceding insurer and the reinsurer and (iii) are provided for in such reinsurance agreement] ; . Voluntary termination does not include situations where termination occurs because of unreasonable provisions which allow the reinsurer to reduce its risk under the agreement. An example of such a provision is the right of the reinsurer to increase reinsurance premiums or risk and expense charges to excessive levels forcing the ceding company to prematurely terminate the reinsurance treaty.

(5) 4. The ceding insurer can be deprived of surplus or assets (i) at the reinsurer's option ; or (ii) automatically upon the occurrence of some event, such as the insolvency of the ceding insurer or the appointment of a receiver except that termination ; or (iii) upon the unilateral termination or reduction of reinsurance coverage by the reinsurer or by the terms of the reinsurance contract. Termination of the reinsurance agreement by the reinsurer for nonpayment of reinsurance premiums or other

amounts due, such as modified coinsurance reserve adjustments, interest and adjustments on funds withheld, and tax reimbursements, shall not be considered to be such a deprivation of surplus ; or assets.

(6) 5. The ceding insurer must, at specific points in time scheduled in the agreement, terminate or automatically recapture all or part of the reinsurance ceded ; .

(7) [6. Settlements are made on an untimely basis or payments due from the reinsurer are not made in cash, but are instead made only in a "reinsurance account" and no funds in such account are available for the payment of benefits] ; [:]

(8) [7. 6.] The reinsurance agreement involves the possible payment by the ceding insurer to the reinsurer of amounts other than from income reasonably expected realized from the reinsured policies or . For example, it is improper for a ceding company to pay reinsurance premiums, or other fees or charges to a reinsurer which are greater than the direct premiums collected by the ceding company.

[8. 7.] Renewal expense allowances provided or to be provided to the ceding insurer by the reinsurer in any accounting period, are not sufficient to cover anticipated allocable renewal expenses of the ceding insurer on the portion of the business reinsured, unless a liability is established for the present value of the shortfall (using assumptions equal to the applicable statutory reserve basis on the business reinsured). Those expenses include commissions, premium taxes and direct expenses including, but not limited to, billing, valuation, claims and maintenance expected by the company at the time the business is reinsured.

(9) [9. 8.] The terms or operating effect of the reinsurance agreement are such that it does not transfer substantial liability or risk: all of the significant risk inherent in the business being reinsured. The table at Exhibit I identifies for a representative sampling of products or types of business, the risks which are considered to be significant. For products not specifically included, the risks determined to be significant shall be consistent with this table.

[10. 9.] a. The credit quality, reinvestment, or disintermediation risk is significant for the business reinsured and the ceding company does not (other than for the classes of business excepted in subdivision [10 b 9 b] either transfer the underlying assets to the reinsurer or legally segregate such assets in a trust or escrow account or otherwise establish a mechanism satisfactory to the commission which legally segregates, by contract or contract provision, the underlying assets.

State Corporation Commission

b. Notwithstanding the requirements of subdivision [~~10 a 9 a~~], the assets supporting the reserves for the following classes of business and any classes of business which do not have a significant credit quality, reinvestment or disintermediation risk may be held by the ceding company without segregation of such assets:

- Health Insurance – Long Term Care/Long Term Disability
- Traditional Nonparticipating Permanent
- Traditional Participating Permanent
- Adjustable Premium Permanent
- Indeterminate Premium Permanent
- Universal Life Fixed Premium (no dump-in premiums allowed)

The associated formula for determining the reserve interest rate adjustment must use a formula which reflects the ceding company's investment earnings and incorporates all realized and unrealized gains and losses reflected in the statutory statement. An acceptable formula appears at Exhibit 2.

[~~11~~ 10.] Settlements are made less frequently than quarterly or payments due from the reinsurer are not made in cash within 90 days of the settlement date.

[~~12~~ 11.] The ceding insurer is required to make representations or warranties not reasonably related to the business being reinsured.

[~~13~~ 12.] The ceding insurer is required to make representations or warranties about future performance of the business being reinsured.

[~~14~~ 13.] The reinsurance agreement is entered into for the principal purpose of producing significant surplus aid for the ceding insurer, typically on a temporary basis, while not transferring all of the significant risks inherent in the business reinsured and, in substance or effect, the expected potential liability to the ceding insurer remains basically unchanged.

B. Compliance with the conditions of subsection A of this section is not to be interpreted to diminish the requirement of Article 3.1 (§ 38.2-1316.1 et seq.) of Chapter 13 in of Title 38.2 of the Code of Virginia that the reserve credits taken must be based upon the actual liability assumed by the reinsurer to reimburse the ceding company for benefits that the ceding company is obligated to pay under its direct policies and which gave rise to the requirement of statutory reserves.

C. Reinsurance agreements may be such that economic

guarantees within the agreement may create a liability which did not exist prior to the agreement. Any contractual guarantees imposed by the agreement upon the ceding insurer must be valued and an appropriate liability otherwise established, or reduction made to otherwise allowable reserve credit, to recognize such obligations. This shall not apply to contractual guarantees that are not economical in nature, such as underwriting, accounting and premium payment procedures guarantees.

D. C. The ceding insurer's actuary responsible for the valuation of the reinsured business shall consider this regulation and any applicable actuarial standards of practice when determining the proper reinsurance credit in financial statements filed with the commission. The actuary should maintain adequate documentation and be prepared upon request to describe the actuarial work that substantiates the reserves, reserve credits or any other reserve adjustments reported in the financial statement and to demonstrate to the satisfaction of the commission that such work conforms to the provisions of this regulation.

E. D. Notwithstanding subsection A of this section, an insurer subject to this regulation may, with the prior approval of the commission, take such reserve credit or establish such asset as the commission may deem consistent with the laws of this Commonwealth, particularly the provisions of Title 38.2 of the Code of Virginia and related rules, regulations and administrative pronouncements, including actuarial interpretations or standards adopted by the commission. All of the insurer's financial statements filed with the commission pursuant to Virginia Code § 38.2-1300 or § ~~38.2-1301~~ 38.2-1301 of the Code of Virginia shall thereafter disclose the reduction in liability or the establishment of an asset.

E. 1. [~~As~~ Each] agreement entered into after [~~December 31, 1994~~ March 31, 1995], which involves the reinsurance of business issued prior to the effective date of the agreement, along with any subsequent amendments thereto, shall be filed by the ceding insurer with the commission within 30 days from its date of execution. Each filing shall include data detailing the financial impact of the transaction. The ceding insurer's actuary who signs the financial statement actuarial opinion with respect to valuation of reserves shall be subject to the standards set forth in subsection C of this section.

2. Any increase in surplus net of federal income tax resulting from arrangements described in subdivision E 1 shall be identified separately on the insurer's statutory financial statement as a surplus item (e.g., as part of the aggregate write-ins for gains and losses in surplus in the Capital and Surplus Account reported at page 4 of the Annual Statement) and recognition of the surplus increase as income shall be reflected on a net of tax basis in the "Reinsurance ceded" portions of the Annual Statement (e.g., Exhibit 1 and Summary of Operations for the life insurer's blue blank and the Underwriting Exhibit and Statement of Income for the

property and casualty insurer's yellow blank) as earnings emerge from the business reinsured.

Example: On the last day of calendar year N, company XYZ pays a \$20 million initial commission and expense allowance to company ABC for reinsuring an existing block of business. Assuming a 34% tax rate, the net increase in surplus at inception is \$13.2 million (\$20 million - \$6.8 million) which is reported on the "Aggregate write-ins for gains and losses in surplus" line in the Capital and Surplus Account. \$6.8 million (34% of \$20 million) is reported as income (on the "Commissions and expense allowances on reinsurance ceded" line of the life insurer's Summary of Operations or as "Other underwriting expenses incurred" on the property and casualty insurer's Statement of Income).

At the end of year N+1 the business has earned \$4 million. ABC has paid \$0.5 million in profit and risk charges in arrears for the year and has received a \$1 million experience refund. Company ABC's annual statement (blue blank) would report \$1.65 million (66% of (\$4 million - \$1 million - \$0.5 million) up to a maximum of \$13.2 million) on the "Commissions and expense allowance on reinsurance ceded" line of the Summary of Operations, and -\$1.65 million on the "Aggregate write-ins for gains and losses in surplus" line of the Capital and Surplus Account. In addition, the experience refund would be reported separately as a miscellaneous income item in a life insurer's Summary of Operations and the "Other Income" segment of the property and casualty insurer's Underwriting and Investment Exhibit, Statement of Income.

§ 5. [4. 5.] Written agreements.

A. No reinsurance agreement or amendment to any agreement may be used to reduce any liability or to establish any asset in any financial statement filed with the commission, unless the agreement, amendment or a letter of intent has been duly executed by both parties no later than the "as of date" of the financial statement.

B. In the case of a letter of intent, a reinsurance agreement or an amendment to a reinsurance agreement must be executed within a reasonable period of time, not exceeding ninety (90) days from the execution date of the letter of intent, in order for credit to be granted for the reinsurance ceded.

C. The reinsurance agreement shall at all times set forth the names of all parties to the agreement.

D. The reinsurance agreement shall contain provisions which provide that:

1. The agreement shall constitute the entire agreement between the parties with respect to the business being

reinsured thereunder and that there are no understandings between the parties other than as expressed in the agreement; and

2. Any change or modification to the agreement shall be null and void unless made by amendment to the agreement and signed by both parties.

§ 6. [5. 6.] Existing agreements.

Notwithstanding Subsection 4A § [3 A 4 A] of this regulation, insurers subject to this regulation may continue to reduce liabilities or establish assets in financial statements filed with the commission for reinsurance ceded under types of reinsurance agreements described in Sections 2C and 4 §§ [1 C and 3 2 C and 4] , provided:

A. 1. The agreements were executed and in force prior to [the effective date of this regulation April 1, 1995] ;

B. [2. No new business is ceded under the agreements after the effective date of this regulation;]

C. [3. 2.] The reduction of the liability or the asset established for the reinsurance ceded is reduced to [zero () 0 ()] at least on a pro-rata basis by December 31, 1992, or such later date approved by the Commission as a result of an application made by the ceding insurer prior to July 1, 1992 1995 ;

D. [4. 3.] The reduction of the liability or the establishment of the asset was not prohibited by the commission's Rules Establishing Standards for Life, Annuity, and Accident and Sickness Reinsurance Agreements [, which were adopted, effective December 1, 1991, by order of the commission entered October 24, 1991, in Case No. 910220 and] which were in effect immediately prior to [April 1, 1995,] the effective date of these revised rules, and is otherwise permissible under all other applicable provisions of the laws of this Commonwealth, particularly the provisions of Title 38.2 of the Code of Virginia and related rules, regulations and administrative pronouncements, including actuarial interpretations or standards adopted by the commission; and

E. [5. 4.] The commission is notified, [within] ninety ([90]) [days following the effective date of this regulation on or before June 30, 1995] , of the existence of such reinsurance agreements and all corresponding reserve credits taken or assets established in the ceding insurer's 1991- 1994 Annual Statement.

§ 7. [6. 7.] Severability.

If any provision in this regulation or the application thereof to any person or circumstance is held for any reason to be invalid, the remainder of the provisions in

State Corporation Commission

this regulation shall not be affected thereby.

higher rates. The company may have to sell assets at a loss to provide for these withdrawals.

EXHIBIT 1 Significant Risks Table

PRODUCT OR TYPE OF BUSINESS	**RISK CATEGORIES					
	a	b	c	d	e	f
Health Insurance - other than LTC/LTD*	+	0	+	0	0	0
Health Insurance - LTC/LTD*	+	0	+	+	+	0
Immediate Annuities	0	+	0	+	+	0
Single Premium Deferred Annuities	0	0	+	+	+	+
Flexible Premium Deferred Annuities	0	0	+	+	+	+
Guaranteed Interest Contracts	0	0	0	+	+	+
Other Annuity Deposit Business	0	0	+	+	+	+
Single Premium Whole Life	0	+	+	+	+	+
Traditional Nonparticipating Permanent	0	+	+	+	+	+
Traditional Nonparticipating Term	0	+	+	0	0	0
Traditional Participating Permanent	0	+	+	+	+	+
Traditional Participating Term	0	+	+	0	0	0
Adjustable Premium Permanent	0	+	+	+	+	+
Indeterminate Premium Permanent	0	+	+	+	+	+
Universal Life Flexible Premium	0	+	+	+	+	+
Universal Life Fixed Premium	0	+	+	+	+	+
Universal Life Fixed Premium (dump-in premiums allowed)	0	+	+	+	+	+

+ = Significant; 0 = Insignificant
* LTC = Long Term Care Insurance;
LTD = Long Term Disability Insurance

**Risk Categories:

(a) Morbidity

(b) Mortality

(c) Lapse. This is the risk that a policy will voluntarily terminate prior to the recoupment of a statutory surplus strain experienced at issue of the policy.

(d) Credit Quality (C1). This is the risk that invested assets supporting the reinsured business will decrease in value. The main hazards are that assets will default or that there will be a decrease in earning power. It excludes market value declines due to changes in interest rates.

(e) Reinvestment (C3). This is the risk that interest rates will fall and funds reinvested (coupon payments or moneys received upon asset maturity or call) will therefore earn less than expected. If asset durations are less than liability durations, the mismatch will increase.

(f) Disintermediation (C3). This is the risk that interest rates rise and policy loans and surrenders increase or maturing contracts do not renew at anticipated rates of renewal. If asset durations are greater than the liability durations, the mismatch will increase. Policyholders will move their funds into new products offering

EXHIBIT 2

Sample Formula for Determining Reserve Interest Rate Adjustment
(Terms and data are as defined in the NAIC Annual Statement blank)

$$\text{Rate} = \frac{2(I \pm CG)}{X + Y - I - CG}$$

Where: I is the net investment income

CG is realized and unrealized capital gains less realized and unrealized capital losses

X is the current year cash and invested assets plus investment income due and accrued less borrowed money

Y is the same as X but for the prior year

V.A.R. Doc. No. R95-267; Filed January 31, 1995, 10:55 a.m.

STATE LOTTERY DEPARTMENT

DIRECTOR'S ORDER NUMBER FORTY-SEVEN (94)

VIRGINIA'S FORTY-SIXTH INSTANT GAME LOTTERY; "ONE-EYED JACK," FINAL RULES FOR GAME OPERATION.

In accordance with the authority granted by Section 58.1-4006A of the Code of Virginia, I hereby promulgate the final rules for game operation in Virginia's forty-sixth instant game lottery, "One-Eyed Jack." These rules amplify and conform to the duly adopted State Lottery Board regulations for the conduct of instant game lotteries.

The rules are available for inspection and copying during normal business hours at the State Lottery Department headquarters, 2201 West Broad Street, Richmond, Virginia, and at each of the State Lottery Department regional offices. A copy may be requested by mail by writing to: Marketing Division, State Lottery Department, P.O. Box 4689, Richmond, Virginia 23220.

This Director's Order becomes effective on the date of its signing and shall remain in full force and effect unless amended or rescinded by further Director's Order.

/s/ Penelope W. Kyle
Director
December 18, 1994

VA.R. Doc. No. R95-273; Filed February 1, 1995, 12:08 p.m.

DIRECTOR'S ORDER NUMBER TWO (95)

VIRGINIA'S TWENTIETH INSTANT GAME LOTTERY, "DOUBLE TAKE," END OF GAME.

In accordance with the authority granted by Section 58.1-4006A of the Code of Virginia, I hereby give notice that Virginia's twentieth instant game lottery, "Double Take," will officially end at midnight on Thursday, April 20, 1995. The last day for lottery retailers to return for credit unsold tickets from "Double Take" will be Thursday, May 11, 1995. The last day to redeem winning tickets for "Double Take" will be Tuesday, October 17, 1995, 180 days from the declared official end of the game. Claims for winning tickets from "Double Take" will not be accepted after that date. Claims which are mailed and received in an envelope bearing a United States Postal Service postmark of October 17, 1995, will be deemed to have been received on time. This notice amplifies and conforms to the duly adopted State Lottery Board regulations for the conduct of instant game lotteries.

This order is available for inspection and copying during normal business hours at the State Lottery Department headquarters, 2201 West Broad Street, Richmond, Virginia; and at each of the State Lottery Department regional offices. A copy may be requested by mail by writing to: Marketing Division, State Lottery Department, P.O. Box 4689, Richmond, Virginia 23220.

This Director's Order becomes effective on the date of its signing and shall remain in full force and effect unless amended or rescinded by further Director's Order.

/s/ Penelope W. Kyle
Director
January 30, 1995

VA.R. Doc. No. R95-274; Filed February 1, 1995, 12:08 p.m.

DIRECTOR'S ORDER NUMBER THREE (95)

VIRGINIA'S TWENTY-SEVENTH INSTANT GAME LOTTERY, "FULL THROTTLE," END OF GAME.

In accordance with the authority granted by Section 58.1-4006A of the Code of Virginia, I hereby give notice that Virginia's twenty-seventh instant game lottery, "Full Throttle," will officially end at midnight on Thursday, April 20, 1995. The last day for lottery retailers to return for credit unsold tickets from "Full Throttle" will be Thursday, May 11, 1995. The last day to redeem winning tickets for "Full Throttle" will be Tuesday, October 17, 1995, 180 days from the declared official end of the game. Claims for winning tickets from "Full Throttle" will not be accepted after that date. Claims which are mailed and received in an envelope bearing a United States Postal Service postmark of October 17, 1995, will be deemed to have been received on time. This notice amplifies and conforms to the duly adopted State Lottery Board regulations for the conduct of instant game lotteries.

This order is available for inspection and copying during normal business hours at the State Lottery Department headquarters, 2201 West Broad Street, Richmond, Virginia; and at each of the State Lottery Department regional offices. A copy may be requested by mail by writing to: Marketing Division, State Lottery Department, P.O. Box 4689, Richmond, Virginia 23220.

This Director's Order becomes effective on the date of its signing and shall remain in full force and effect unless amended or rescinded by further Director's Order.

/s/ Penelope W. Kyle
Director
January 30, 1995

VA.R. Doc. No. R95-275; Filed February 1, 1995, 12:08 p.m.

DIRECTOR'S ORDER NUMBER FOUR (95)

"PUMP UP THE VOLUME," VIRGINIA LOTTERY RETAILER SALES PROMOTIONAL PROGRAM RULES.

In accordance with the authority granted by Section 58.1-4006A of the Code of Virginia, I hereby promulgate the "Pump Up the Volume," Virginia Lottery Retailer Sales Promotional Program Rules for the lottery retailer incentive program which will be conducted from

State Lottery Department

Wednesday, April 19, 1995 through Tuesday, June 27, 1995.
These rules amplify and conform to the duly adopted State Lottery Board regulations.

These rules are available for inspection and copying during normal business hours at the State Lottery Department headquarters, 2201 West Broad Street, Richmond, Virginia, and at each of the State Lottery Department regional offices. A copy may be requested by mail by writing to: Marketing Division, State Lottery Department, P.O. Box 4689, Richmond, Virginia 23220.

This Director's Order becomes effective on the date of its signing and shall remain in full force and effect until June 30, 1995, unless otherwise extended by the Director.

/s/ Penelope W. Kyle
Director
January 30, 1995

VA.R. Doc. No. R95-276; Filed February 1, 1995, 12:08 p.m.

GOVERNOR

GOVERNOR'S COMMENTS ON PROPOSED REGULATIONS

(Required by § 9-6.12:9.1 of the Code of Virginia)

BOARD FOR CONTRACTORS

Title of Regulation: **VR 220-01-2. Board for Contractors Regulations (REPEALED).**

Title of Regulation: **VR 220-01-2:1. Board for Contractors Regulations.**

Governor's Comment:

I have reviewed this proposed regulation on a preliminary basis. While I reserve the right to take action authorized by the Administrative Process Act during the final adoption period, I have no objection to the proposed regulation based on the information and public comment currently available.

/s/ George Allen
Governor
Date: January 25, 1995

V.A.R. Doc. No. R95-263; Filed January 27, 1995, 12:04 p.m.

DEPARTMENT OF EDUCATION (STATE BOARD OF)

Title of Regulation: **VR 270-01-0014. Management of the Student's Scholastic Record in the Public Schools of Virginia.**

Governor's Comment:

I have reviewed this proposed regulation on a preliminary basis. While I reserve the right to take action authorized by the Administrative Process Act during the final adoption period, I have no objection to the proposed regulation based on the information and public comment currently available.

/s/ George Allen
Governor
Date: January 16, 1995

V.A.R. Doc. No. R95-234; Filed January 23, 1995, 1:59 p.m.

STATE COUNCIL OF HIGHER EDUCATION FOR VIRGINIA

Title of Regulation: **VR 380-01-00. Public Participation Guidelines.**

Governor's Comment:

I have reviewed this proposed regulation on a preliminary basis. This regulation is mandated by state law. While I reserve the right to take action authorized by

the Administrative Process Act during the final adoption period, I have no objection to the proposed regulation.

/s/ George Allen
Governor
Date: January 24, 1995

V.A.R. Doc. No. R95-264; Filed January 27, 1995, 12:04 p.m.

GENERAL NOTICES/ERRATA

Symbol Key †

† Indicates entries since last publication of the Virginia Register

GENERAL NOTICES

VIRGINIA CODE COMMISSION

NOTICE TO STATE AGENCIES

Mailing Address: Our mailing address is: Virginia Code Commission, 910 Capitol Street, General Assembly Building, 2nd Floor, Richmond, VA 23219. You may FAX in your notice; however, we ask that you FAX two copies and do not follow up with a mailed copy. Our FAX number is: 692-0625.

FORMS FOR FILING MATERIAL ON DATES FOR PUBLICATION IN THE VIRGINIA REGISTER OF REGULATIONS

All agencies are required to use the appropriate forms when furnishing material and dates for publication in The Virginia Register of Regulations. The forms are supplied by the office of the Registrar of Regulations. If you do not have any forms or you need additional forms, please contact: Virginia Code Commission, 910 Capitol Street, General Assembly Building, 2nd Floor, Richmond, VA 23219, telephone (804) 786-3591.

FORMS:

NOTICE of INTENDED REGULATORY ACTION - RR01
NOTICE of COMMENT PERIOD - RR02
PROPOSED (Transmittal Sheet) - RR03
FINAL (Transmittal Sheet) - RR04
EMERGENCY (Transmittal Sheet) - RR05
NOTICE of MEETING - RR06
AGENCY RESPONSE TO LEGISLATIVE OBJECTIONS - RR08

CALENDAR OF EVENTS

Symbols Key

- † Indicates entries since last publication of the Virginia Register
- ♿ Location accessible to handicapped
- ☎ Telecommunications Device for Deaf (TDD)/Voice Designation

NOTICE

Only those meetings which are filed with the Registrar of Regulations by the filing deadline noted at the beginning of this publication are listed. Since some meetings are called on short notice, please be aware that this listing of meetings may be incomplete. Also, all meetings are subject to cancellation and The Virginia Register deadline may preclude a notice of such cancellation.

For additional information on open meetings and public hearings held by the Standing Committees of the Legislature during the interim, please call Legislative Information at (804) 786-6530.

VIRGINIA CODE COMMISSION

EXECUTIVE

VIRGINIA AGRICULTURAL COUNCIL

- † March 27, 1995 - 9 a.m. – Open Meeting
 - † March 28, 1995 - 9 a.m. – Open Meeting
- Sheraton Inn Charlottesville, 2350 Seminole Trail, Charlottesville, Virginia. ♿ (Interpreter for the deaf provided upon request)

A meeting to hear and act upon project proposals for financial assistance through the Virginia Agricultural Council. The council will entertain public comment at the close of all other business for a period not to exceed 30 minutes. Any person who needs accommodations in order to participate during the meeting should contact Thomas Yates at least 10 days before the meeting date so that suitable arrangements can be made.

Contact: Thomas R. Yates, Assistant Secretary, Virginia Agricultural Council, 1100 Bank St., Suite 203, Richmond, VA 23219, telephone (804) 786-6060.

DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

Virginia Bright Flue-Cured Tobacco Board

- † March 10, 1995 - 10 a.m. – Open Meeting
- Sheldon's Restaurant, Keysville, Virginia. ♿

The board will meet to consider funding proposals for

research, promotion, and education projects pertaining to Virginia flue-cured tobacco and other business that may come before the board. Any person who needs any accommodation in order to participate at the meeting should contact D. Stanley Duffer at least five days before the meeting so that suitable arrangements can be made. The board will entertain public comment at the conclusion of all other business for a period not to exceed 30 minutes.

Contact: D. Stanley Duffer, Secretary, Virginia Bright Flue-Cured Tobacco Board, P.O. Box 129, Halifax, VA 24558, telephone (804) 572-4568.

Virginia Peanut Board

- March 8, 1995 - 10 a.m. – Open Meeting
- Tidewater Agricultural Research and Extension Center, Suffolk, Virginia. ♿

A meeting to review peanut research projects for possible funding in 1995. Any person who needs any accommodation in order to participate in the meeting should contact Russell Schools at least four days before the meeting so that suitable arrangements can be made. The board will entertain public comment at the conclusion of all other business for a period not to exceed 30 minutes.

Contact: Russell C. Schools, Program Director, Virginia Peanut Board, P.O. Box 356, Capron, VA 23829, telephone (804) 658-4573.

Virginia Winegrowers Advisory Board

- † April 28, 1995 - 10 a.m. – Open Meeting
- Virginia Cooperative Extension Office, 168 Spotnap Road, Charlottesville, Virginia. ♿ (Interpreter for the deaf provided upon request)

The board will hear grant proposal presentations for funding, hear committee and project reports, and discuss old and new business. Public comment will be heard following the conclusion of board business. Any person who needs any accommodation in order to participate at the meeting should contact Mary Davis-Barton at least 14 days before the meeting date so that suitable arrangements can be made.

Contact: Mary Davis-Barton, Secretary, Virginia Winegrowers Advisory Board, P.O. Box 1163, Richmond, VA 23209, telephone (804) 371-7685.

Calendar of Events

VIRGINIA ALCOHOLIC BEVERAGE CONTROL BOARD

February 22, 1995 - 9:30 a.m. – Open Meeting
Department of Alcoholic Beverage Control, 2901 Hermitage Road, Richmond, Virginia. ☒

A meeting to receive and discuss reports and activities from staff members. Other matters not yet determined.

Contact: W. Curtis Coleburn, Secretary to the Board, Virginia Alcoholic Beverage Control Board, 2901 Hermitage Rd., P.O. Box 27491, Richmond, VA 23261, telephone (804) 367-0712.

BOARD FOR ARCHITECTS, PROFESSIONAL ENGINEERS, LAND SURVEYORS AND LANDSCAPE ARCHITECTS

February 23, 1995 - 9 a.m. – Open Meeting
February 24, 1995 - 9 a.m. – Open Meeting
Department of Professional and Occupational Regulation, 3600 West Broad Street, Conference Room 3, Richmond, Virginia. ☒ (Interpreter for the deaf provided upon request)

The Land Surveyor Section will conduct an examination workshop to compile the Virginia State Land Surveyor A and B examinations for the April 1995 administration.

Contact: George O. Bridewell, Examination Administrator, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8572 or (804) 367-9753/TDD ☎

† **February 27, 1995 - 9 a.m. – Open Meeting**
Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia. ☒

A meeting to conduct informal fact-finding conferences pursuant to the Administrative Process Act in order for the Board for Architects, Professional Engineers, Land Surveyors and Landscape Architects to make case decisions. A meeting in regard to the Board for Architects v. Robert A. Steele, A.I.A., File Number 94-01969.

Contact: Stacie G. Camden, Legal Assistant, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-2393.

Board for Architects

February 24, 1995 - 9 a.m. – Open Meeting
Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia. ☒

A regularly scheduled board meeting. Persons desiring to participate in the meeting and requiring special

accommodations or interpreter services should contact Mark Courtney at least 10 days prior to the meeting so that suitable arrangements can be made. The department fully complies with the Americans with Disabilities Act.

Contact: Mark N. Courtney, Assistant Director, Board for Architects, Professional Engineers, Land Surveyors and Landscape Architects, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8514 or (804) 367-9753/TDD ☎

Board for Interior Designers

† **March 23, 1995 - 9 a.m. – Open Meeting**
Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia. ☒

A regularly scheduled board meeting. Persons desiring to participate in the meeting and requiring special accommodations or interpreter services should contact the department at least 10 days prior to the meeting so that suitable arrangements can be made. The department fully complies with the Americans with Disabilities Act.

Contact: Mark N. Courtney, Assistant Director, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8514 or (804) 367-9753/TDD ☎

Board for Landscape Architects

† **March 16, 1995 - 9 a.m. – Open Meeting**
Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia. ☒

A regularly scheduled board meeting. Persons desiring to participate in the meeting and requiring special accommodations or interpreter services should contact the department at least 10 days prior to the meeting so that suitable arrangements can be made. The department fully complies with the Americans with Disabilities Act.

Contact: Mark N. Courtney, Assistant Director, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8514 or (804) 367-9753/TDD ☎

Board for Land Surveyors

† **March 9, 1995 - 9 a.m. – Open Meeting**
Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia. ☒

A regularly scheduled board meeting. Persons desiring to participate in the meeting and requiring special accommodations or interpreter services should contact the department at least 10 days prior to the meeting so that suitable arrangements can be made. The department fully complies with the Americans with

Disabilities Act.

Contact: Mark N. Courtney, Assistant Director, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8514 or (804) 367-9753/TDD ☎

Board for Professional Engineers

† **March 2, 1995 - 9 a.m.** – Open Meeting
Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia. ☎

A regularly scheduled board meeting. Persons desiring to participate in the meeting and requiring special accommodations or interpreter services should contact the department at least 10 days prior to the meeting so that suitable arrangements can be made. The department fully complies with the Americans with Disabilities Act.

Contact: Mark N. Courtney, Assistant Director, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8514 or (804) 367-9753/TDD ☎

BOARD FOR ASBESTOS LICENSING AND LEAD CERTIFICATION

† **March 9, 1995 - 10 a.m.** – Open Meeting
Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia. ☎

A regular meeting.

Contact: David E. Dick, Assistant Director, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8595 or (804) 367-9753/TDD ☎

BOARD OF AUDIOLOGY AND SPEECH-LANGUAGE PATHOLOGY

February 23, 1995 - 9 a.m. – Open Meeting
Department of Health Professions, 6606 West Broad Street, 5th Floor, Richmond, Virginia.

A regularly scheduled board meeting. Agenda items include adoption of regulatory review analysis on public participation guidelines. Public comment will be received at the beginning of the meeting for 15 minutes.

Contact: Lisa Russell Hahn, Executive Director, Board of Audiology and Speech-Language Pathology, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9907 or (804) 662-7197/TDD ☎

VIRGINIA AVIATION BOARD

February 21, 1995 - 3 p.m. – Open Meeting
Department of Aviation, 5702 Gulfstream Road, Sandston, Virginia. ☎ (Interpreter for the deaf provided upon request)

A workshop for the Virginia Aviation Board. No formal actions will be taken. Individuals with a disability should contact Cindy Waddell 10 days prior to the meeting if assistance is needed.

Contact: Cindy Waddell, Department of Aviation, 5702 Gulfstream Rd., Sandston, VA 23150, telephone (804) 236-3625 or (804) 236-3624/TDD ☎

February 22, 1995 - 9 a.m. – Open Meeting
Sheraton Inn-Richmond Airport, 4700 South Laburnum Avenue, Richmond, Virginia. ☎ (Interpreter for the deaf provided upon request)

A regular bi-monthly meeting of the board. Applications for state funding will be presented to the board, and other matters of interest to the Virginia aviation community will be discussed. Individuals with a disability should contact Cindy Waddell 10 days prior to the meeting if assistance is needed.

Contact: Cindy Waddell, Department of Aviation, 5702 Gulfstream Rd., Sandston, VA 23150, telephone (804) 236-3625 or (804) 236-3624/TDD ☎

BOARD FOR BARBERS

March 12, 1995 - 9 a.m. – Open Meeting
March 13, 1995 - 9 a.m. – Open Meeting
3813 Gaskins Road, Richmond, Virginia. ☎ (Interpreter for the deaf provided upon request)

The board will meet to conduct an examination workshop for the state barber written, practical, and instructor examinations.

Contact: George O. Bridewell, Examination Administrator, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8572 or (804) 367-9753/TDD ☎

† **April 3, 1995 - 9 a.m.** – Open Meeting
Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia. ☎

A general business meeting. Persons desiring to participate in the meeting and requiring special accommodations or interpreter services should contact the department at least 10 days prior to the meeting so that suitable arrangements can be made. The department fully complies with the Americans with Disabilities Act.

Calendar of Events

Contact: Karen W. O'Neal, Assistant Director, Board for Barbers, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-0500 or (804) 367-9753/TDD ☎

CHESAPEAKE BAY LOCAL ASSISTANCE BOARD

Southern Area Review Committee

February 22, 1995 - 10 a.m. – Open Meeting
Chesapeake Bay Local Assistance Department, 805 East Broad Street, Suite 701, Richmond, Virginia. ☎ (Interpreter for the deaf provided upon request)

The committee will review Chesapeake Bay Preservation Area programs for the southern area. Persons interested in observing should call the Chesapeake Bay Local Assistance Department to verify meeting time, location and schedule. No comments from the public will be entertained at the meeting. However, written comments are welcome.

Contact: Receptionist, Chesapeake Bay Local Assistance Department, 805 E. Broad St., Richmond, VA 23219, telephone (804) 225-3440 or toll-free 1-800-243-7229/TDD ☎

STATE BOARD FOR COMMUNITY COLLEGES

† **March 15, 1995 - 2:30 p.m. – Open Meeting**
Virginia Community College System, James Monroe Building, 101 North 14th Street, 15th Floor, Richmond, Virginia.

State board committee meetings.

Contact: Joy S. Graham, Assistant Chancellor, Public Affairs, State Board for Community Colleges, James Monroe Bldg., 101 N. 14th St., 15th Floor, Richmond, VA 23219, telephone (804) 225-2126 or (804) 371-8504/TDD ☎

† **March 16, 1995 - 9 a.m. – Open Meeting**
Virginia Community College System, James Monroe Building, 101 North 14th Street, 15th Floor, Richmond, Virginia.

A regularly scheduled state board meeting.

Contact: Joy S. Graham, Assistant Chancellor, Public Affairs, State Board for Community Colleges, James Monroe Bldg., 101 N. 14th St., 15th Floor, Richmond, VA 23219, telephone (804) 225-2126 or (804) 371-8504/TDD ☎

COMPENSATION BOARD

March 2, 1995 - 1 p.m. – Open Meeting
March 30, 1995 - 1 p.m. – Open Meeting
Ninth Street Office Building, 202 North Ninth Street, Room 913/913A, Richmond, Virginia. ☎ (Interpreter for the deaf provided upon request)

A routine meeting to conduct business.

Contact: Bruce W. Haynes, Executive Secretary, Compensation Board, P.O. Box 710, Richmond, VA 23206-0686, telephone (804) 786-3886/TDD ☎

DEPARTMENT OF CONSERVATION AND RECREATION

Goose Creek Scenic River Advisory Board

February 22, 1995 - 2 p.m. – Open Meeting
George Washington University, Route 7, Xerox Office Park, Loudoun County, Virginia.

A meeting to review river issues and programs.

Contact: Richard G. Gibbons, Environmental Program Manager, Department of Conservation and Recreation, Division of Planning and Recreation Resources, 203 Governor St., Suite 326, Richmond, VA 23219, telephone (804) 786-4132 or (804) 786-2121/TDD ☎

Virginia State Parks Foundation

† **February 24, 1995 - 10 a.m. – Open Meeting**
Department of Conservation and Recreation, 203 Governor Street, Director's Conference Room, Suite 302, Richmond, Virginia.

A regular board meeting.

Contact: Bonnie Phillips, Policy Analyst, Department of Conservation and Recreation, 203 Governor St., Richmond, VA 23219-2010, telephone (804) 786-2291.

BOARD FOR CONTRACTORS

Recovery Fund Committee

March 15, 1995 - 9 a.m. – Open Meeting
Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia. ☎

A meeting to consider claims filed against the Virginia Contractor Transaction Recovery Fund. This meeting will be open to the public; however a portion of the discussion may be conducted in executive session. Persons desiring to participate in the meeting and requiring special accommodations or interpreter services should contact Holly Erickson. The department fully complies with the Americans with Disabilities Act. Please notify the department of your request at least two weeks in advance for consideration of your request.

Contact: Holly Erickson, Assistant Administrator, Board for Contractors, 3600 W. Broad St., Richmond, VA 23219, telephone (804) 367-8561.

BOARD FOR COSMETOLOGY

March 27, 1995 - 10 a.m. - Open Meeting

Department of Professional and Occupational Regulation,
3600 West Broad Street, Richmond, Virginia. ☒

A general business meeting. Persons desiring to participate in the meeting and requiring special accommodations or interpreter services should contact Karen W. O'Neal. The department fully complies with the Americans with Disabilities Act. Please notify the department of your request for accommodation at least two weeks in advance.

Contact: Karen W. O'Neal, Assistant Director, Board for Cosmetology, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-0500 or (804) 367-9753/TDD ☎

DEPARTMENT OF CRIMINAL JUSTICE SERVICES (CRIMINAL JUSTICE SERVICES BOARD)

† **May 3, 1995 - 9 a.m. - Public Hearing**

General Assembly Building, 910 Capitol Square, House Room D, Richmond, Virginia.

† **April 21, 1995 - Public comments may be submitted through this date.**

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Criminal Justice Services Board intends to amend regulations entitled: **VR 240-03-2. Regulations Relating to Private Security Services.** The proposed amendments to the regulations incorporate 1994 legislative changes to the Code of Virginia affecting private security services. House Bill 393 required the Criminal Justice Services Board to establish a regulation for the registration of a personal protection specialist (bodyguard) by July 1, 1995. Similarly, House Bill 395 required the board to promulgate a regulation for the licensure of electronic security businesses and the registration of such electronic security business employees as an "alarm respondent," "central station dispatcher," "electronic security sales representative," or "electronic security technician." As a result, the board must amend its private security services regulations to reflect these mandates.

Statutory Authority: § 9-182 of the Code of Virginia.

Public comments may be submitted through April 21, 1995, to Lex T. Eckenrode, Department of Criminal Justice Services, 805 East Broad Street, Richmond, Virginia 23219.

Contact: Leon D. Baker, Jr., Chief, Private Security Services, 805 E. Broad St., Richmond, VA 23219, telephone (804) 786-4700.

BOARD OF DENTISTRY

† **February 24, 1995 - 9 a.m. - Open Meeting**

Department of Health Professions, 6606 West Broad Street, 5th Floor, Conference Room 4, Richmond, Virginia. ☒ (Interpreter for the deaf provided upon request)

There will be a formal hearing at 9 a.m.; informal conference at 10:30 a.m.; and a regulatory/legislative committee meeting at 1 p.m. This is a public meeting; however, no public comment will be taken.

Contact: Marcia J. Miller, Executive Director, Board of Dentistry, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9902 or (804) 662-7197/TDD ☎

DEPARTMENT OF EDUCATION (BOARD OF)

† **February 23, 1995 - 8:30 a.m. - Open Meeting**

Henrico County Schools, Glen Echo Building, 3810 Nine Mile Road, Richmond, Virginia. ☒ (Interpreter for the deaf provided upon request)

The Board of Education and the Board of Vocational Education will hold a regularly scheduled meeting. Business will be conducted according to items listed on the agenda. The agenda is available on request.

Contact: James E. Laws, Jr., Administrative Assistant for Board Relations, Department of Education, P.O. Box 2120, Richmond, VA 23216-2120, telephone (804) 225-2540 or toll-free 1-800-292-3820.

† **March 27, 1995 - 7 p.m. - Public Hearing**

Abingdon High School, 705 Thompson Drive, Abingdon, Virginia. ☒ (Interpreter for the deaf provided upon request)

† **March 27, 1995 - 7 p.m. - Public Hearing**

Maury High School, 322 Shirley Avenue, Norfolk, Virginia. ☒ (Interpreter for the deaf provided upon request)

† **March 28, 1995 - 7 p.m. - Public Hearing**

John M. Langston Middle School, 228 Cleveland Street, Danville, Virginia. ☒ (Interpreter for the deaf provided upon request)

† **March 28, 1995 - 7 p.m. - Public Hearing**

Spotswood High School, Penn Laid, Virginia. ☒ (Interpreter for the deaf provided upon request)

† **March 29, 1995 - 7 p.m. - Public Hearing**

Falls Church High School, 7521 Jaguar Trail, Falls Church, Virginia. ☒ (Interpreter for the deaf provided upon request)

† **March 29, 1995 - 7 p.m. - Public Hearing**

Prince Edward High School, Route 5, Box 680, Farmville, Virginia. ☒ (Interpreter for the deaf provided upon request)

Calendar of Events

request)

† **March 30, 1995 - 7 p.m.** – Public Hearing
Huguenot High School, 7945 Forest Hill Avenue, Richmond, Virginia. ☒ (Interpreter for the deaf provided upon request)

† **March 30, 1995 - 7 p.m.** – Public Hearing
William Byrd High School, 2902 Washington Avenue, Vinton, Virginia. ☒ (Interpreter for the deaf provided upon request)

The Board of Education is in the process of revising the Standards of Learning in Mathematics, Science, Social Studies, and English/Language Arts. The purpose of this hearing is to receive comments from the public on the proposed revisions.

Contact: James E. Laws, Jr., Administrative Assistant for Board Relations, Department of Education, P.O. Box 2120, Richmond, VA 23216-2120, telephone (804) 225-2540 or toll-free 1-800-292-3820.

* * * * *

March 10, 1995 – Written comments may be submitted through this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board of Education intends to amend regulations entitled: **VR 270-01-0014. Management of the Student's Scholastic Record in the Public Schools of Virginia.** The purpose of the proposed amendment is to require adherence by local education agencies to applicable state and federal laws regarding the management of student records.

Statutory Authority: §§ 22.1-16, 22.1-287.1, 22.1-288.2, and 22.1-289 of the Code of Virginia and § 4 of Article VIII of the Constitution of Virginia.

Contact: Thomas A. Elliott, Division Chief, Department of Education, P.O. Box 2120, Richmond, VA 23216-2120, telephone (804) 371-2522 or toll-free 1-800-292-3820.

LOCAL EMERGENCY PLANNING COMMITTEE - CITY OF ALEXANDRIA

† **March 8, 1995 - 6 p.m.** – Open Meeting
Potomac Electric Power Company, 1400 North Royal Street, Alexandria, Virginia. ☒ (Interpreter for the deaf provided upon request)

A meeting with committee members and facility emergency coordinators to conduct business in accordance with SARA Title III, Emergency Planning and Community Right-to-Know Act of 1986.

Contact: Charles McRorie, Emergency Preparedness Coordinator, P.O. Box 178, Alexandria, VA 22313, telephone

(703) 838-3825 or (703) 838-5056/TDD ☎

LOCAL EMERGENCY PLANNING COMMITTEE - ARLINGTON COUNTY/CITY OF FALLS CHURCH/WASHINGTON NATIONAL AIRPORT

† **April 11, 1995 - 5:30 p.m.** – Open Meeting
Arlington County Fire Station #1, 500 South Glebe Road, Arlington, Virginia. ☒ (Interpreter for the deaf provided upon request)

A regular meeting to conduct general business.

Contact: Michael Kilby, Captain, Hazardous Materials Coordinator, 1020 N. Hudson St., Arlington, VA 22204, telephone (703) 358-4652 or (703) 358-4644, FAX (703) 358-4655.

LOCAL EMERGENCY PLANNING COMMITTEE - SCOTT COUNTY

March 21, 1995 - 1:30 p.m. – Open Meeting
County Office Building, 112 Water Street, Gate City, Virginia. ☒

An update of SARA Title III for Scott County.

Contact: Barbara Edwards, Public Information Officer, 112 Water Street, Suite 1, Gate City, VA 24251, telephone (703) 386-6521 or FAX (703) 386-9198.

DEPARTMENT OF ENVIRONMENTAL QUALITY

Advisory Committee on Notification Process to Private Property Owners of Potential Exceptional Waters Designations

† **March 2, 1995 - 11 a.m.** – Open Meeting
† **March 2, 1995 - 7 p.m.** – Open Meeting
† **March 4, 1995 - 11 a.m.** – Open Meeting
Department of Environmental Quality, Innsbrook Corporate Center, 4900 Cox Road, Training Room, Glen Allen, Virginia. ☒

† **March 23, 1995 - 11 a.m.** – Open Meeting
† **March 23, 1995 - 7 p.m.** – Open Meeting
Department of Environmental Quality, Innsbrook Corporate Center, 4900 Cox Road, Executive Conference Room, Richmond, Virginia. ☒

† **March 25, 1995 - 11 a.m.** – Open Meeting
Department of Environmental Quality, Innsbrook Corporate Center, 4900 Cox Road, Training Room, Richmond, Virginia. ☒

The department is establishing an advisory committee to assist Department of Environmental Quality staff in developing criteria for assuring that all affected

private property owners are informed of potential exceptional waters designations and their impact on the use of private property. Meeting dates are not firm and are subject to change if weather conditions prevent travel on these dates. Persons interested in attending the meetings of this committee should confirm the date with Jean W. Gregory.

Contact: Jean W. Gregory, Environmental Program Manager, Department of Environmental Quality, P.O. Box 10909, Richmond, VA 23240-0009, telephone (804) 762-4113.

BOARD OF FORESTRY

† **March 16, 1995 - 9 a.m.** – Open Meeting
Shelton Training Center, Garland Gray Forestry Center, 19127 Sandy Hill Road, Courtland, Virginia. ☒

A joint meeting with the Reforestation Board will be held from 9 to 10 a.m., and there will be a Board of Forestry workshop from 10 a.m. to 3 p.m.

Contact: Barbara A. Worrell, Administrative Staff Specialist, P.O. Box 3758, Charlottesville, VA 22903, telephone (804) 977-6555, FAX (804) 296-2369 or (804) 977-6555/TDD ☒

BOARD OF GAME AND INLAND FISHERIES

March 16, 1995 - 10 a.m. – Open Meeting
March 17, 1995 - 10 a.m. – Open Meeting
Innsbrook Corporate Center, 4900 Cox Road, Glen Allen, Virginia. ☒

The board will meet to consider wildlife regulations to be effective July 1995 through June 1997. The board will determine whether or not any of these proposed regulations, or other alternative regulatory language, should be adopted as final regulations. In addition, general and administrative matters will be discussed. The board may hold an executive session.

Contact: Phil Smith, Policy Analyst, Department of Game and Inland Fisheries, 4010 W. Broad St., Richmond, VA 23230, telephone (804) 367-8341.

GEORGE MASON UNIVERSITY

Board of Visitors

† **March 22, 1995 - 3:30 p.m.** – Open Meeting
George Mason University, Arlington Campus, 3401 North Fairfax Avenue, Professional Center, Arlington, Virginia.

A regular meeting of the board to hear reports of the standing committees of the board, and act on those recommendations presented by the standing committees. An agenda will be available seven days

prior to the board meeting for those individuals or organizations who request it. The Student Affairs Committee will meet at 6:30 p.m. on March 21, 1995, Fairfax Campus, Mason Hall.

Contact: Ann Wingblade, Administrative Assistant, or Rita Lewis, Administrative Staff Assistant, Office of the President, George Mason University, Fairfax, VA 22030-4444, telephone (703) 993-8701 or FAX (703) 993-8707.

DEPARTMENT OF HEALTH (STATE BOARD OF)

February 24, 1995 – Written comments may be submitted through this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Board of Health intends to amend regulations entitled: **VR 355-28-300. Regulations for the Immunization of School Children.** Chapter 62 of the 1994 Acts of the General Assembly (HB 1280) requires that children born on or after January 1, 1994, be immunized against hepatitis B before their first birthday. The regulations are being amended to add hepatitis B vaccine to the list of vaccines already required for children to be admitted to day care centers and schools.

Statutory Authority: §§ 22.1-271.2 and 32.1-46 of the Code of Virginia.

Contact: Martin Cader, M.D., Director, Division of Communicable Disease Control, Department of Health, P.O. Box 2448, Room 113, Richmond, VA 23218, telephone (804) 786-6261 or FAX (804) 786-1076.

* * * * *

February 27, 1995 – Written comments may be submitted until 5 p.m. on this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Board of Health intends to amend regulations entitled: **VR 355-33-500. Rules and Regulations for the Licensure of Hospitals in Virginia (Neonatal Services).** Pursuant to the Commonwealth's commitment to reduce infant mortality, the proposed regulations establish a service level distinction based upon national standards to ensure treatment of a range of neonates from normal newborns to the sickest, high-risk newborns. The proposed regulations are the minimum quality assurance standards that must be uniformly met if hospitals want to provide neonatal services in the Commonwealth.

Statutory Authority: §§ 32.1-12 and 32.1-127 of the Code of Virginia.

Written comments may be submitted until 5 p.m. on

Calendar of Events

February 27, 1995, to Nancy R. Hofheimer, Director of the Office of Health Facilities Regulation, Department of Health, 3600 W. Broad Street, Suite 216, Richmond, Virginia 23230.

Contact: Stephanie Sivert, Director, Acute Care Service, Department of Health, Office of Health Facilities Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-2104 or FAX (804) 367-2149.

Marina Regulations Advisory Committee

† **March 2, 1995 - 10:30 a.m.** – Open Meeting

† **March 10, 1995 - 10:30 a.m.** – Open Meeting

Department of Health, 1500 East Main Street, Room 109, Richmond, Virginia. ☒

A meeting to discuss issues related to the Virginia Sanitary Regulations for Marinas and Boat Moorings.

Contact: A.F. Golding, Marina Supervisor, Department of Health, Division of Wastewater Engineering, P.O. Box 2448, Richmond, VA 23218, telephone (804) 786-1761 or FAX (804) 786-5567.

VIRGINIA HEALTH SERVICES COST REVIEW COUNCIL

February 28, 1995 - 9:30 a.m. – Open Meeting

Trigon Blue Cross/Blue Shield, 2015 Staples Mill Road, Richmond, Virginia. ☒

A monthly meeting.

Contact: Kim Bolden Walker, Public Relations Coordinator, Virginia Health Services Cost Review Council, 805 E. Broad St., 6th Floor, Richmond, VA 23219, telephone (804) 786-6371.

BOARD FOR HEARING AID SPECIALISTS

March 13, 1995 - 9 a.m. – CANCELLED

Department of Professional and Occupational Regulation, 3600 West Broad Street, Conference Room 3, Richmond, Virginia. ☒ (Interpreter for the deaf provided upon request)

The meeting to conduct a Cut Score Study for the hearing aid specialist written examination has been cancelled.

Contact: George O. Bridewell, Examination Administrator, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8572 or (804) 367-9753/TDD ☎

STATE COUNCIL OF HIGHER EDUCATION FOR VIRGINIA

February 21, 1995 - 10 a.m. – Open Meeting

Omni Hotel, Richmond, Virginia. ☒ (Interpreter for the deaf provided upon request)

March 14, 1995 - 9:30 a.m. – Open Meeting

Council of Higher Education, 101 North 14th Street, Council Conference Room, Richmond, Virginia. ☒

A general business meeting. Contact the council for more information.

Contact: Anne M. Pratt, Associate Director, State Council of Higher Education, 101 N. 14th St., 9th Floor, Richmond, VA 23219, telephone (804) 225-2639.

VIRGINIA HIV PREVENTION COMMUNITY PLANNING COMMITTEE

March 3, 1995 - 8 a.m. – Open Meeting

Holiday Inn Historic District, 301 West Franklin Street, Richmond, Virginia. ☒ (Interpreter for the deaf provided upon request)

The committee will continue its activities in planning HIV prevention for Virginia. The committee will discuss counseling and testing programs.

Contact: Elaine G. Martin, Coordinator AIDS Education, Department of Health, P.O. Box 2448, Room 112, Richmond, VA 23218, telephone (804) 786-0877, toll-free 1-800-533-4148/TDD ☎

HOPEWELL INDUSTRIAL SAFETY COUNCIL

March 7, 1995 - 9 a.m. – Open Meeting

Hopewell Community Center, Second and City Point Road, Hopewell, Virginia. ☒ (Interpreter for the deaf provided upon request)

Local Emergency Preparedness Committee Meeting on emergency preparedness as required by SARA Title III.

Contact: Robert Brown, Emergency Service Coordinator, 300 North Main Street, Hopewell, VA 23860, telephone (804) 541-2298.

VIRGINIA HOUSING DEVELOPMENT AUTHORITY

February 21, 1995 - 11 a.m. – Open Meeting

Virginia Housing Development Authority, 601 South Belvidere Street, Richmond, Virginia. ☒

A regular meeting of the Board of Commissioners to (i) review and, if appropriate, approve the minutes for

the prior monthly meeting; (ii) consider for approval and ratification mortgage loan commitments under its various programs; (iii) review the authority's operations for the prior month; and (iv) consider such other matters and take such other actions as it may deem appropriate. Various committees of the board may also meet before or after the regular meeting and consider matters within their purview. The planned agenda of the meeting will be available at the offices of the authority one week prior to the date of the meeting.

Contact: J. Judson McKellar, Jr., General Counsel, Virginia Housing Development Authority, 601 S. Belvidere St., Richmond, VA 23220, telephone (804) 782-1986.

COUNCIL ON INFORMATION MANAGEMENT

† February 27, 1995 - 10 a.m. - Open Meeting
Center for Innovative Technology, 2214 Rock Hill Road, Herndon, Virginia. ☒

The Virginia Technology Infrastructure Task Force '95, led by the Council on Information Management, will hear presentations from state agencies, institutions of higher education and technology vendors to assist in the development of a comprehensive plan for telecommunications and information technology in the Commonwealth.

Contact: Linda Hening, Administrative Assistant, Council on Information Management, 1100 Bank St., Suite 901, Richmond, VA 23219, telephone (804) 225-3622 or (804) 225-3624/TDD ☎

VIRGINIA INTERAGENCY COORDINATING COUNCIL

March 22, 1995 - 9:30 a.m. - Open Meeting
Henrico Area Mental Health and Mental Retardation Services, 10299 Woodman Road, Richmond, Virginia. ☒

A quarterly meeting of the council to discuss issues relating to the implementation of a comprehensive system of early intervention services for infants and toddlers with disabilities and their families.

Contact: Richard Corbett, Department of Mental Health, Mental Retardation, and Substance Abuse Services, Early Intervention, P.O. Box 1797, Richmond, VA 23214, telephone (804) 786-3710.

VIRGINIA INTERCOMMUNITY TRANSITION COUNCIL

† March 2, 1995 - 9 a.m. - Open Meeting
Holiday Inn Hampton, 1815 West Mercury Boulevard, Hampton, Virginia. ☒ (Interpreter for the deaf provided upon request)

State and local representatives from 13 state agencies, the Social Security Administration and representatives of the business and consumer community form the VITC. The VITC meets quarterly to focus on strategic targets to move Virginia forward in the development of statewide and systematic transition services for all youth with disabilities. Eleven-thirty to 12:30 of every meeting is designated for public comment to enable persons or groups who are not standing members of the VITC to express opinions and recommendations to the VITC regarding transition issues.

Contact: Kathy Trossi, Education Services Manager, Department of Rehabilitative Services, 8004 Franklin Farms Dr., Richmond, VA 23288-0300, telephone (804) 662-7609 or toll-free 1-800-552-5019, or Sharon deFur, Associate Specialist/Transition, Department of Education, P.O. Box 2120, Monroe Bldg., 101 N. 14th St., 20th Floor, Richmond, VA 23216, telephone (804) 225-2702.

DEPARTMENT OF LABOR AND INDUSTRY

Migrant and Seasonal Farmworkers Board

† March 1, 1995 - 10 a.m. - Open Meeting
State Capitol, Capitol Square, House Room 1, Richmond, Virginia. ☒ (Interpreter for the deaf provided upon request)

A regular meeting of the board.

Contact: Patti C. Bell, Staff Coordinator, Department of Labor and Industry, 13 S. 13th St., Richmond, VA 23219, telephone (804) 225-3083 or (804) 786-2376/TDD ☎

LIBRARY BOARD

March 13, 1995 - 10:30 a.m. - Open Meeting
Library of Virginia, 11th Street at Capitol Square, 3rd Floor, Supreme Court Room, Richmond, Virginia. ☒

A meeting to discuss administrative matters of the Library of Virginia.

Contact: Jean H. Taylor, Secretary to the State Librarian, Library of Virginia, 11th Street at Capitol Square, Richmond, VA 23219, telephone (804) 786-2332.

Archives and Records Management Committee

March 13, 1995 - 8 a.m. - Open Meeting
Library of Virginia, 11th Street at Capitol Square, 3rd Floor, Conference Room B, Richmond, Virginia. ☒

A meeting to discuss matters pertaining to archives and records management at the Library of Virginia.

Contact: Jean H. Taylor, Secretary to the State Librarian, Library of Virginia, 11th Street at Capitol Square,

Calendar of Events

Richmond, VA 23219, telephone (804) 786-2332.

Automation and Networking Committee

March 13, 1995 - 8:45 a.m. – Open Meeting
Library of Virginia, 11th Street at Capitol Square, 3rd Floor, Conference Room B, Richmond, Virginia. ☒

A meeting to discuss matters pertaining to automation and networking related to the Library Board.

Contact: Jean H. Taylor, Secretary to the State Librarian, Library of Virginia, 11th Street at Capitol Square, Richmond, VA 23219, telephone (804) 786-2332.

By-Laws Committee

March 13, 1995 - 10:15 a.m. – Open Meeting
Library of Virginia, 11th Street at Capitol Square, Office of the State Librarian, Richmond, Virginia. ☒

A meeting to discuss possible revisions to the by-laws of the Library Board.

Contact: Jean H. Taylor, Secretary to the State Librarian, Library of Virginia, 11th Street at Capitol Square, Richmond, VA 23219, telephone (804) 786-2332.

Executive Committee

March 12, 1995 - 6 p.m. – Open Meeting
Omni Richmond Hotel, 100 South 12th Street, Richmond, Virginia. ☒

A meeting to discuss matters pertaining to the Library Board.

Contact: Jean H. Taylor, Secretary to the State Librarian, Library of Virginia, 11th Street at Capitol Square, Richmond, VA 23219, telephone (804) 786-2332.

General Library Committee

March 13, 1995 - 8 a.m. – Open Meeting
Library of Virginia, 11th Street at Capitol Square, Director's Office, Richmond, Virginia. ☒

A meeting to discuss general library matters as they relate to the Library Board.

Contact: Jean H. Taylor, Secretary to the State Librarian, Library of Virginia, 11th Street at Capitol Square, Richmond, VA 23219, telephone (804) 786-2332.

Legislative and Finance Committee

March 13, 1995 - 9:30 a.m. – Open Meeting
Library of Virginia, 11th Street at Capitol Square, Office of the State Librarian, Richmond, Virginia. ☒

A meeting to discuss legislative and financial matters

related to the Library Board.

Contact: Jean H. Taylor, Secretary to the State Librarian, Library of Virginia, 11th Street at Capitol Square, Richmond, VA 23219, telephone (804) 786-2332.

Nominating Committee

March 13, 1995 - 10:15 a.m. – Open Meeting
Library of Virginia, 11th Street at Capitol Square, Office of the State Librarian, Richmond, Virginia. ☒

A meeting to discuss nominations relating to the Library Board.

Contact: Jean H. Taylor, Secretary to the State Librarian, Library of Virginia, 11th Street at Capitol Square, Richmond, VA 23219, telephone (804) 786-2332.

Public Library Development Committee

March 13, 1995 - 8:45 a.m. – Open Meeting
Library of Virginia, 11th Street at Capitol Square, Room 4-24, Richmond, Virginia. ☒

A meeting to discuss matters relating to public library development and the Library Board.

Contact: Jean H. Taylor, Secretary to the State Librarian, Library of Virginia, 11th Street at Capitol Square, Richmond, VA 23219, telephone (804) 786-2332.

Publications and Cultural Affairs Committee

March 13, 1995 - 9:30 a.m. – Open Meeting
Library of Virginia, 11th Street at Capitol Square, Director's Office, Richmond, Virginia. ☒

A meeting to discuss matters related to publications and cultural affairs and the Library Board.

Contact: Jean H. Taylor, Secretary to the State Librarian, Library of Virginia, 11th Street at Capitol Square, Richmond, VA 23219, telephone (804) 786-2332.

VLIN Task Force

† **February 21, 1995 - 10 a.m.** – Open Meeting
J. Sargeant Reynolds Community College, 1701 East Parham Road, College Administration Building, First Floor Conference Room, Richmond, Virginia. ☒

† **March 6, 1995 - 10 a.m.** – Open Meeting
Library of Virginia, 11th Street at Capitol Square, Supreme Court Room, 3rd Floor, Richmond, Virginia. ☒

A meeting to discuss strategic directions for the development of the Virginia Library and Information Network.

Contact: Jean H. Taylor, Secretary to State Librarian, 11th

Calendar of Events

Street at Capitol Square, Richmond, VA 23219, telephone (804) 786-2332.

STATE COUNCIL ON LOCAL DEBT

March 15, 1995 - 11 a.m. – Open Meeting
James Monroe Building, 101 North 14th Street, 3rd Floor, Treasury Board Conference Room, Richmond, Virginia. ☒

A regular meeting; subject to cancellation unless there are action items requiring the council's consideration. Persons interested in attending should call one week prior to the meeting date to ascertain whether or not the meeting is to be held as scheduled.

Contact: Gary Ometer, Debt Manager, Department of the Treasury, P.O. Box 1879, Richmond, VA 23215, telephone (804) 225-4928.

COMMISSION ON LOCAL GOVERNMENT

March 20, 1995 - 11 a.m. – Open Meeting
March 20, 1995 - 7:30 p.m. – Public Hearing
Ashland area; site to be determined.

A meeting and a public hearing regarding the proposed voluntary settlement between the Town of Ashland and Hanover County. Persons desiring to participate in the commission's proceedings and requiring special accommodations or interpreter services should contact the commission's office.

Contact: Barbara Bingham, Administrative Assistant, Commission on Local Government, 8th Street Office Bldg., Room 702, Richmond, VA 23219, telephone (804) 786-6508 or (804) 786-1860/TDD ☎

March 21, 1995 - 9 a.m. – Open Meeting
Ashland area; site to be determined.

A regular meeting of the commission to consider such matters as may be presented. Persons desiring to participate in the meeting and requiring special accommodations or interpreter services should contact the commission's office.

Contact: Barbara Bingham, Administrative Assistant, Commission on Local Government, 702 8th Street Office Bldg., Richmond, VA 23219, telephone (804) 786-6508 or (804) 786-1860/TDD ☎

STATE LOTTERY BOARD

February 28, 1995 - 10 a.m. – Open Meeting
State Lottery Department, 2201 West Broad Street, Richmond, Virginia. ☒ (Interpreter for the deaf provided upon request)

A regular monthly meeting of the board. Business will be conducted according to items listed on the agenda which have not yet been determined. Two periods for public comment are scheduled.

Contact: Barbara L. Robertson, Lottery Staff Officer, State Lottery Department, 2201 W. Broad St., Richmond, VA 23220, telephone (804) 367-3106 or FAX (804) 367-3116.

VIRGINIA MANUFACTURED HOUSING BOARD

March 22, 1995 - 10 a.m. – Open Meeting
Department of Housing and Community Development, Jackson Center, 501 North Second Street, Richmond, Virginia. ☒ (Interpreter for the deaf provided upon request)

A regular monthly meeting.

Contact: Curtis L. McIver, Associate Director, Department of Housing and Community Development, Manufactured Housing Office, Jackson Center, 501 N. 2nd St., Richmond, VA 23219, telephone (804) 371-7160 or (804) 371-7089/TDD ☎

MARINE RESOURCES COMMISSION

February 28, 1995 - 9:30 a.m. – Open Meeting
Marine Resources Commission, 2600 Washington Avenue, 4th Floor, Room 403, Newport News, Virginia. ☒

The commission will hear and decide marine environmental matters at 9:30 a.m.; permit applications for projects in wetlands, bottom lands, coastal primary sand dunes and beaches; appeals of local wetland board decisions; policy and regulatory issues. The commission will hear and decide fishery management items at approximately noon. Items to be heard are as follows: regulatory proposals, fishery management plans; fishery conservation issues; licensing; shellfish leasing. Meetings are open to the public. Testimony is taken under oath from parties addressing agenda items on permits and licensing. Public comments are taken on resource matters, regulatory issues and items scheduled for public hearing. The commission is empowered to promulgate regulations in the areas of marine environmental management and marine fishery management.

Contact: Sandra S. Schmidt, Secretary to the Commission, Marine Resources Commission, P.O. Box 756, Newport News, VA 23607-0756, telephone (804) 247-8088, toll-free 1-800-541-4646 or (804) 247-2292/TDD ☎

DEPARTMENT OF MEDICAL ASSISTANCE SERVICES

February 24, 1995 – Written comments may be submitted until this date.

Calendar of Events

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Department of Medical Assistance Services intends to amend regulations entitled: VR 460-01-11 and VR 460-02-2.1100. Virginia Medicaid Qualifying Health Maintenance Organizations (HMOs). The Appropriations Act, passed by the 1994 General Assembly, required the Department of Medical Assistance (DMAS) to implement a health maintenance organization contracting program effective May 1, 1994. Federal regulations at 42 CFR 434.20(c) require that the state define health maintenance organizations in the state plan prior to entering into risk contracts with entities that are not federally qualified health maintenance organizations and that are providing comprehensive services. The regulations define extensive requirements for health maintenance organizations, which the State Corporation Commission's Bureau of Insurance has promulgated as Regulation 28. Rather than promulgate a separate set of regulations, DMAS is incorporating by reference Regulation 28. A new Attachment (2.1 A) is being added to the state plan to define a Medicaid health maintenance organization as required.

Statutory Authority: § 32.1-325 of the Code of Virginia.

Written comments may be submitted until February 24, 1995, to Susan Bareford, Department of Medical Assistance Services, 600 East Broad Street, Richmond, Virginia 23219.

Contact: Victoria P. Simmons, Regulatory Coordinator, Department of Medical Assistance Services, 600 E. Broad St., Suite 1300, Richmond, VA 23219, telephone (804) 371-8850.

* * * * *

† **April 21, 1995** -- Written comments may be submitted through this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Department of Medical Assistance Services intends to amend regulations entitled: VR 460-03-4.1940:1. Nursing Home Payment System (Smaller Nursing Facility Indirect Ceiling Adjustment). The purpose of this proposal is to comply with the 1994 Virginia Acts of Assembly which appropriated funds for use in increasing the indirect patient care operating per diem ceiling for small nursing facilities.

Under current DMAS policy, the indirect patient care operating cost ceiling is adjusted only to reflect geographical peer groups and is not modified to recognize any differences in bed size of facilities. The Virginia Health Care Association (VHCA) and the Joint Legislative Audit and Review Commission (JLARC) have recommended that DMAS adjust reimbursement to nursing facilities to reflect the relatively higher indirect operating costs incurred in operating a

smaller facility. Based upon information from these organization, the 1994 General Assembly appropriated funds for this purpose and directed DMAS to work with the VHCA to develop an appropriate methodology.

For the purposes of this regulatory action, both DMAS and the nursing home industry have agreed that a smaller nursing facility is one with 90 or fewer beds. Effective July 1, 1995, existing indirect peer group ceilings of smaller nursing facilities will be adjusted by the predetermined amount identified in the regulation. In subsequent fiscal years, the facilities' adjusted ceilings will be increased according to a formula reflecting the increase in cost due to inflation.

Statutory Authority: § 32.1-325 of the Code of Virginia.

Public comments may be submitted through April 21, 1995, to Scott Crawford, Division of Cost Settlement and Audit, Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Richmond, Virginia 23219.

Contact: Victoria Simmons or Roberta Jonas, Regulatory Coordinator, Department of Medical Assistance Services, 600 E. Broad St., Suite 1300, Richmond, VA 23219, telephone (804) 371-8850.

BOARD OF MEDICINE

† **March 2, 1995 - 9 a.m.** -- Open Meeting

Sheraton Inn and Conference Center, 2801 Plank Road, Fredericksburg, Virginia. ☒

† **March 16, 1995 - 9:30 a.m.** -- Open Meeting

Department of Health Professions, 6606 West Broad Street, 4th Floor, Richmond, Virginia. ☒

† **March 24, 1995 - 9:30 a.m.** -- Open Meeting

Holiday Inn-Downtown, 814 Capitol Landing Road, Williamsburg. ☒

The Informal Conference Committee composed of three members of the board will inquire into allegations that certain practitioners may have violated laws and regulations governing the practice of medicine and other healing arts in Virginia. The committee will meet in open and closed sessions pursuant to § 2.1-344 of the Code of Virginia. Public comment will not be received.

Contact: Karen W. Perrine, Deputy Executive Director, Discipline, Board of Medicine, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9908 or (804) 662-9943/TDD ☎

DEPARTMENT OF MENTAL HEALTH, MENTAL RETARDATION AND SUBSTANCE ABUSE SERVICES

State Human Rights Committee

† **March 10, 1995 - 9 a.m.** – Open Meeting
Valley CSB, 110 West Washington Street, Basement Conference Room, Staunton, Virginia.

A regular meeting to discuss business relating to human rights issues. Agenda items are listed for the meeting.

Contact: Elsie D. Little, State Human Rights Director, Department of Mental Health, Mental Retardation and Substance Abuse Services, Madison Bldg., 109 Governor St., Richmond, VA 23219, telephone (804) 786-3988 or (804) 371-8977/TDD ☎

STATE MENTAL HEALTH, MENTAL RETARDATION AND SUBSTANCE ABUSE SERVICES BOARD

† **February 26, 1995 - 2:30 p.m.** – Open Meeting
Holiday Inn, Koger Center South, 1021 Koger Center Boulevard, Richmond, Virginia. ☒

† **February 27, 1995 - 1 p.m.** – Open Meeting
Chesterfield CSB, 6801 Corr Court, Richmond, Virginia. ☒

A regular monthly meeting. Agenda to be published on February 15, 1995. Agenda can be obtained by calling Jane Helfrich.

Sunday	Committee meetings	2:30 p.m.
	Informal session	4 p.m.
Monday	Informal sessions and tours	9 a.m.
	Regular session	1 p.m.

Contact: Jane V. Helfrich, Board Administrator, State Mental Health, Mental Retardation and Substance Abuse Services Board, P.O. Box 1797, Richmond, VA 23214, telephone (804) 786-7945.

† **March 26, 1995 - 2 p.m.** – Open Meeting
Central State Hospital, Petersburg, Virginia. ☒

† **March 27, 1995 - 9 a.m.** – Open Meeting
Central State Hospital, Petersburg, Virginia. ☒

A regular monthly meeting. Agenda to be published on March 15, 1995. Agenda can be obtained by calling Jane Helfrich.

Sunday	Committee meetings	2 p.m.
	Informal session	4 p.m.
Monday	Informal session	9 a.m.

Contact: Jane V. Helfrich, Board Administrator, State Mental Health, Mental Retardation and Substance Abuse Services Board, P.O. Box 1797, Richmond, VA 23214, telephone (804) 786-7945.

DEPARTMENT OF MINES, MINERALS AND ENERGY

Division of Mined Land Reclamation

February 23, 1995 - 1 p.m. – Open Meeting
Department of Mines, Minerals and Energy, Buchanan-Smith Building, Route 23, Conference Room 116, Big Stone Gap, Virginia. ☒ (Interpreter for the deaf provided upon request)

A public meeting to give interested persons an opportunity to be heard in regard to the FY 95 Abandoned Mine Land Consolidated Grant Application to be submitted to the Federal Office of Surface Mining.

Contact: Roger L. Williams, Abandoned Mine Land Manager, Department of Mines, Minerals and Energy, P.O. Drawer 900, Big Stone Gap, VA 24219, telephone (703) 523-8208 or toll-free 1-800-828-1120 (VA Relay Center)

March 1, 1995 - 1 p.m. – Open Meeting
Department of Mines, Minerals and Energy, Buchanan-Smith Building, Route 23, Big Stone Gap, Virginia. ☒ (Interpreter for the deaf provided upon request)

A meeting of the Coal Combustion By-Products/Biosolids Work Group to advise the agency on development of guidelines for the placement of coal combustion by-products and biosolids on Division of Mined Land Reclamation permitted sites. This work group meeting is open to the public. There will be a public comment period at the conclusion of the meeting.

Contact: Les Vincent, Chief Engineer, Department of Mines, Minerals and Energy, Division of Mined Land Reclamation, P.O. Drawer 900, Big Stone Gap, VA 24219, telephone (703) 523-8178 or toll-free 1-800-828-1120 (VA Relay Center)

BOARD OF NURSING

Nurse Aide Registry

February 21, 1995 - 9 a.m. – Open Meeting
Department of Health Professions, 6606 West Broad Street, 4th Floor, Richmond, Virginia. ☒ (Interpreter for the deaf provided upon request)

A special conference committee of the Board of Nursing will meet to hold informal conferences for certified nurses aides. Public comment will not be

Calendar of Events

received.

Contact: Nancy K. Durrett, R.N., M.S.N., Assistant Executive Director, Board of Nursing, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-7310 or (804) 662-7197/TDD ☎

BOARD OF OPTOMETRY

† **March 16, 1995 - 8 a.m.** – Public Hearing
Department of Health Professions, 6606 West Broad Street, 5th Floor Conference Room, Richmond, Virginia.

† **April 21, 1995** – Written comments may be submitted through this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board of Optometry intends to amend regulations entitled: **VR 510-01-1. Regulations of the Board of Optometry. The purpose of the proposed amendments are to (i) remove defunct public participation guidelines; (ii) establish provisions for licensure by endorsement; (iii) reduce fees; and (iv) establish specifications for a complete contact lens prescription.**

Statutory Authority: §§ 54.1-103, 54.1-2400 and 54.1-3200 et seq. of the Code of Virginia.

Contact: Elizabeth Carter, Executive Director, Board of Optometry, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9910 or (804) 662-7197/TDD ☎

BOARD OF PHARMACY

February 22, 1995 - 9 a.m. – Open Meeting
Department of Health Professions, 6606 West Broad Street, Conference Room 2, Richmond, Virginia.

A regular meeting of the board, a formal hearing and adoption of draft report for regulatory review of VR 530-01-2 (Practitioners of the Healing Arts to Sell Controlled Substances) and VR 530-01-3 (Public Participation Guidelines). A panel of the Board of Pharmacy will conduct formal hearings in the afternoon. Public comments will be received from 9:15 a.m. to 9:30 a.m.

Contact: Scotti W. Milley, Executive Director, Board of Pharmacy, 6606 W. Broad St., 4th Floor, Richmond, VA 23230, telephone (804) 662-9911.

POLYGRAPH EXAMINERS ADVISORY BOARD

† **March 28, 1995 - 10 a.m.** – Open Meeting
Department of Professional and Occupational Regulation, 3600 West Broad Street, 4th Floor, Richmond, Virginia. ☎

The board will meet to review new enforcement procedures, administer the polygraph examiners licensing examination to eligible polygraph examiner interns, and to consider other matters which may require board action. A public comment period will be scheduled during the meeting. The meeting is open to the public. Persons desiring to participate in the meeting and requiring special accommodations or interpreter services should contact the department at least 10 days prior to the meeting. The department fully complies with the Americans with Disabilities Act.

Contact: Nancy Taylor Feldman, Assistant Director, Polygraph Examiners Board, 3600 W. Broad St., Richmond, VA 23230-4917, telephone (804) 367-8590 or (804) 367-9753/TDD ☎

BOARD OF PROFESSIONAL COUNSELORS

Advisory Board on Rehabilitation Providers

† **March 10, 1995 - 9 a.m.** – Open Meeting
Department of Health Professions, 6606 West Broad Street, Conference Room 3, Richmond, Virginia.

A meeting to consider education and experience requirements for the certification of rehabilitation providers.

Contact: Janet Delorme, Research Assistant, Board of Professional Counselors, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9575.

BOARD FOR PROFESSIONAL AND OCCUPATIONAL REGULATION

March 6, 1995 - 10 a.m. – Open Meeting
Department of Professional and Occupational Regulation, 3600 West Broad Street, 4th Floor, Richmond, Virginia. ☎

A general business meeting.

Contact: Debra Vought, Agency Management Analyst, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-9142.

BOARD OF PSYCHOLOGY

† **February 27, 1995 - 9 a.m.** – Open Meeting
Department of Health Professions, 6606 West Broad Street, Conference Room 1, Richmond, Virginia. ☎

The Board of Psychology/Board of Medicine Task Force for the Study of Dual Licensure will convene to discuss alternatives to the current dual licensure status of clinical psychologists. Public comment will be

received.

Contact: Kelli Moss, Administrative Assistant, or Evelyn Brown, Executive Director, Board of Psychology, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9913.

† **March 28, 1995 - 10 a.m. – Open Meeting**
Department of Health Professions, 6606 West Broad Street, Richmond, Virginia. ☐

The Board of Psychology will convene a formal hearing regarding the credentials of an applicant. Public comment will not be received.

Contact: Kelli Moss, Administrative Assistant, or Evelyn Brown, Executive Director, Board of Psychology, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9913.

† **March 28, 1995 - 11 a.m. – Open Meeting**
Department of Health Professions, 6606 West Broad Street, Conference Room 1, Richmond, Virginia. ☐

The Board of Psychology will convene to discuss the recommendations made by the Task Force for the Study of Dual Licensure, and to conduct other board business. Public comment will be received.

Contact: Kelli Moss, Administrative Assistant, or Evelyn Brown, Executive Director, Board of Psychology, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9913.

Advisory Committee on Certified Practices

† **February 23, 1995 - 10 a.m. – Open Meeting**
Eastern State Hospital, 4601 Ironbound Road, Building 9, Psychology Department, Conference Room 95, Williamsburg, Virginia.

Subcommittee meetings to define terms in the drafted regulations and discuss proposed educational and experience requirements for the certification of sex offender treatment providers.

Contact: Janet Delorme, Research Assistant, Department of Health Professions, 6606 W. Broad St., 4th Floor, Richmond, VA 23230, telephone (804) 662-9575.

† **March 9, 1995 - 10 a.m. – Open Meeting**
Department of Health Professions, 6606 West Broad Street, 5th Floor, Conference Room 3, Richmond, Virginia.

A meeting to consider standards of practice, and education and experience requirements for the certification of sex offender treatment providers.

Contact: Janet Delorme, Research Assistant, Department of Health Professions, 6606 W. Broad St., 4th Floor, Richmond, VA 23230, telephone (804) 662-9575.

Examination Committee

† **March 24, 1995 - 10:30 a.m. – Open Meeting**
Department of Health Professions, 6606 West Broad Street, Richmond, Virginia.

The Examination Committee will convene to conduct general committee business. Public comment will not be received.

Contact: Kelli Moss, Administrative Assistant, or Evelyn Brown, Executive Director, Board of Psychology, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9913.

REAL ESTATE APPRAISER BOARD

NOTE: CHANGE IN MEETING TIME

March 7, 1995 - 9 a.m. – Open Meeting
Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia. ☐

A general business meeting. Persons desiring to participate in the meeting and requiring special accommodations or interpreter services should contact Karen W. O'Neal. The department fully complies with the Americans with Disabilities Act. Please notify the department of your request for accommodation at least two weeks in advance.

Contact: Karen W. O'Neal, Assistant Director, Real Estate Appraiser Board, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-0500 or (804) 367-9753/TDD ☎

REAL ESTATE BOARD

February 22, 1995 - 9 a.m. – Open Meeting
February 23, 1995 - 9 a.m. – Open Meeting
Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia. ☐

A meeting to conduct informal fact-finding conferences pursuant to the Administrative Process Act in order for the Real Estate Board to make case decisions.

Contact: Stacie Camden, Legal Assistant, Real Estate Board, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-2393.

DEPARTMENT OF REHABILITATIVE SERVICES

March 8, 1995 - 4 p.m. – Public Hearing
Rockbridge Administration Building, 150 South Main Street, Lexington, Virginia. ☐

March 9, 1995 - 3:30 p.m. – Public Hearing
Department of Rehabilitative Services Regional Office, 5365 Robin Hood Road, Suite G, Norfolk, Virginia. ☐

Calendar of Events

March 9, 1995 - 4 p.m. – Public Hearing
Department of Rehabilitative Services Field Office, 600
East Water Street, Suite E, Charlottesville, Virginia. ☒

March 13, 1995 - 3:30 p.m. – Public Hearing
301 Goodwin Neck Road, Human Services Building,
Committee Room, Yorktown, Virginia. ☒

March 13, 1995 - 7:30 p.m. – Public Hearing
Governmental Center, 12000 Governmental Center
Parkway, Fairfax, Virginia. ☒

March 14, 1995 - 4 p.m. – Public Hearing
468 East Main Street, Abingdon, Virginia. ☒

March 16, 1995 - 4 p.m. – Public Hearing
Woodrow Wilson Rehabilitation Center, Mary Switzer
Building, The Anderson Room, Fishersville, Virginia. ☒

March 16, 1995 - 4 p.m. – Public Hearing
3433 Brambleton Avenue, S.W., Roanoke, Virginia. ☒

March 21, 1995 - 4 p.m. – Public Hearing
Department of Rehabilitative Services Central Office, 8004
Franklin Farms Drive, Richmond, Virginia. ☒

A public hearing opportunity for people with disabilities, and other interested individuals, groups, and organizations to help develop the 1995 State Plans for Vocational Rehabilitation and Supported Employment. Written comments will be accepted through April 15, 1995, at the Department of Rehabilitative Services, or comments may be telephoned to the department. Sign language interpreters will be provided.

Contact: Dale Riley, Secretary, Department of Rehabilitative Services, 8004 Franklin Farms Dr., K300, Richmond, VA 23288, telephone (804) 662-7611 or toll-free 1-800-552-5019/TDD ☎

SEWAGE HANDLING AND DISPOSAL APPEALS REVIEW BOARD

March 8, 1995 - 10 a.m. – Open Meeting
City Hall, Municipal Building, Patton Street, City Council
Chambers, Danville, Virginia. ☒

A meeting to hear all administrative appeals of denials of onsite sewage disposal systems permits pursuant to §§ 32.1-166.1 et seq. and 9-6.14:12 of the Code of Virginia, and VR 355-34-02.

Contact: Constance G. Talbert, Secretary to the Board, Sewage Handling and Disposal Appeals Review Board, 1500 E. Main St., Suite 117, P.O. Box 2448, Richmond, VA 23218, telephone (804) 786-1750.

STATE BOARD OF SOCIAL SERVICES

March 15, 1995 - 9 a.m. – Open Meeting
March 16, 1995 - 9 a.m. – Open Meeting (if necessary)
Wayside Inn, 7783 Main Street (crossroads of Route 11 and
I-81, Exit 302), Middletown, Virginia. ☒

A work session and formal business meeting of the board.

Contact: Phyllis Sisk, Special Assistant to the Commissioner, State Board of Social Services, 730 E. Broad St., Richmond, VA 23219, telephone (804) 692-1900, toll-free 1-800-552-3431 or toll-free 1-800-552-7096/TDD ☎

TREASURY BOARD

March 15, 1995 - 9 a.m. – Open Meeting
James Monroe Building, 101 North 14th Street, 3rd Floor,
Treasury Board Room, Richmond, Virginia. ☒

A regular meeting.

Contact: Gloria J. Hatchel, Administrative Assistant, Department of the Treasury, James Monroe Bldg., 101 N. 14th St., Richmond, VA 23219, telephone (804) 371-6011.

DEPARTMENT FOR THE VISUALLY HANDICAPPED

Vocational Rehabilitation Council

February 25, 1995 - 10 a.m. – Open Meeting
State Library for the Visually and Physically Handicapped,
395 Azalea Avenue, Richmond, Virginia. ☒ (Interpreter for
the deaf provided upon request)

The council meets quarterly to advise the department on matters related to vocational rehabilitation services for the blind and visually impaired citizens of the Commonwealth. Request deadline for interpreter services is February 11, 1995, at 3:30 p.m.

Contact: James G. Taylor, Vocational Rehabilitation Specialist, Department for the Visually Handicapped, 397 Azalea Ave., Richmond, VA 23227, telephone (804) 371-3140, toll-free 1-800-662-2155 or (804) 371-3140/TDD ☎

VIRGINIA VOLUNTARY FORMULARY BOARD

March 16, 1995 - 10 a.m. – Public Hearing
James Madison Building, 109 Governor Street, Main Floor
Conference Room, Richmond, Virginia.

A public hearing to consider the proposed adoption and issuance of revisions to the Virginia Voluntary Formulary. The proposed revisions to the formulary add and delete drugs and drug products to the formulary that became effective on May 1, 1994, and

to the most recent supplement to that publication. Copies of the proposed revisions to the formulary are available for inspection at the Virginia Department of Health, Bureau of Pharmacy Services, James Madison Building, 109 Governor Street, Richmond, Virginia 23219. Written comments sent to the above address and received prior to 5 p.m. on March 16, 1995, will be made a part of the hearing record.

Contact: James K. Thomson, Bureau of Pharmacy Services, Department of Health, Madison Bldg., 109 Governor St., Room B1-9, Richmond, VA 23219, telephone (804) 786-4326.

STATE WATER CONTROL BOARD

† **February 23, 1995 - 7 p.m.** – Public Hearing

Culpeper County High School Auditorium, 14240 Achievement Drive, Culpeper, Virginia. ☎ (Interpreter for the deaf provided upon request)

The State Water Control Board will hold a public hearing to receive comments on the proposed Virginia Pollutant Discharge Elimination System (VPDES) Permit No. VA0088749 for the Boston Water and Sewer Company, 5545 Security Circle, Boston, Virginia. The purpose of this hearing is to receive comments on the proposed issuance or denial of the permit and the effect of the discharge on water quality or beneficial uses of state waters.

Contact: Deborah G. Pegram, Hearings Reporter, Department of Environmental Quality, Policy and Research, P.O. Box 10009, Richmond, VA 23240, telephone (804) 762-4041 or (804) 762-4021/TDD ☎

February 23, 1995 - 7 p.m. – Public Hearing

Hopewell Community Center, 100 West City Point Road, Richmond, Virginia. ☎ (Interpreter for the deaf provided upon request)

The State Water Control Board will hold a public hearing to receive comments on the proposed Virginia Pollutant Discharge Elimination System (VPDES) Permit No. VA0005291 for Allied Signal, Inc., P.O. Box 761, Hopewell, Virginia. The purpose of this hearing is to receive comments on the proposed reissuance or denial of the permit and the effect of the discharge on water quality or beneficial uses of state waters.

Contact: Doneva A. Dalton, Hearings Reporter, Department of Environmental Quality, Policy and Research, P.O. Box 10009, Richmond, VA 23240, telephone (804) 762-4379 or (804) 762-4021/TDD ☎

† **February 27, 1995 - 7 p.m.** – Public Hearing

King George County Board of Supervisors Room, 10459 Courthouse Drive, Horace A. Rivercomb Administration Building, King George, Virginia. ☎ (Interpreter for the deaf provided upon request)

The State Water Control Board will hold a public hearing to receive comments on the proposed Virginia Pollutant Discharge Elimination System (VPDES) Permit No. VA0026514 for the Dahlgren District Wastewater Treatment Plant, State Route 206, 0.5 miles southeast of U.S. Route 301, Dahlgren, King George, Virginia. The purpose of this hearing is to receive comments on the proposed modification or denial of the permit and the effect of the discharge on water quality or beneficial uses of state waters.

Contact: Deborah G. Pegram, Hearings Reporter, Department of Environmental Quality, Policy and Research, P.O. Box 10009, Richmond, VA 23240, telephone (804) 762-4041 or (804) 762-4021/TDD ☎

† **February 28, 1995 - 7 p.m.** – Public Hearing

Bedford County Administration Building, 122 East Main Street, 2nd Floor, Board of Supervisors Meeting Room, Bedford, Virginia. ☎ (Interpreter for the deaf provided upon request)

The State Water Control Board will hold a public hearing to receive comments on the proposed Virginia Pollutant Discharge Elimination System (VPDES) Permit No. VA0060992 for Allstate Management Corp., Huntingwood Apartments STP, 23 West Park Avenue, Merchantville, New Jersey 08109. The purpose of this hearing is to receive comments on the proposed reissuance or denial of the permit and the effect of the discharge on water quality or beneficial uses of state waters.

Contact: Doneva A. Dalton, Hearings Reporter, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 762-4379, (804) 762-4021/TDD ☎ or FAX (804) 762-4346.

† **February 28, 1995 - 7 p.m.** – Public Hearing

Bedford County Administration Building, 122 East Main Street, 2nd Floor, Board of Supervisors Meeting Room, Bedford, Virginia. ☎ (Interpreter for the deaf provided upon request)

The State Water Control Board will hold a public hearing to receive comments on the proposed Virginia Pollutant Discharge Elimination System (VPDES) Permit No. VA0068543 for U.S. Trails, Thousand Trails, Inc., Route 2, Box 125, Gladys, Virginia 24554. The purpose of this hearing is to receive comments on the proposed reissuance or denial of the permit and the effect of the discharge on water quality or beneficial uses of state waters.

Contact: Doneva A. Dalton, Hearings Reporter, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 762-4379, (804) 762-4021/TDD ☎ or FAX (804) 762-4346.

† **February 28, 1995 - 7 p.m.** – Public Hearing

Bedford County Administration Building, 122 East Main

Calendar of Events

Street, 2nd Floor, Board of Supervisors Meeting Room, Bedford, Virginia. ☎ (Interpreter for the deaf provided upon request)

The State Water Control Board will hold a public hearing to receive comments on the proposed Virginia Pollutant Discharge Elimination System (VPDES) Permit No. VA0068497 for Bowers Commercial Development STP, 5720 Williamson Road, N.W., Roanoke, Virginia 24012. The purpose of this hearing is to receive comments on the proposed reissuance or denial of the permit and the effect of the discharge on water quality or beneficial uses of state waters.

Contact: Doneva A. Dalton, Hearings Reporter, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 762-4379, (804) 762-4021/TDD ☎ or FAX (804) 762-4346.

THE COLLEGE OF WILLIAM AND MARY

February 26, 1995 – Written comments may be submitted until this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that The College of William and Mary intends to amend regulations entitled: **VR 187-01-02. Motor Vehicle Parking and Traffic Rules and Regulations.** The purpose of the proposed amendment is to make minor changes in fees and lot designations.

Statutory Authority: § 23-9.2:3 of the Code of Virginia.

Written comments may be submitted until February 26, 1995, to Nancy S. Nash, Office of Administration and Finance, The College of William and Mary, P.O. Box 8795, Williamsburg, Virginia 23187-8795.

Contact: Mark Gettys, Associate Director, Auxiliary Services, The College of William and Mary, P.O. Box 8795, Williamsburg, VA 23187-8795, telephone (804) 221-2435.

CHRONOLOGICAL LIST

OPEN MEETINGS

February 21

Aviation Board, Virginia
Housing Development Authority, Virginia
† Library Board
- VLIN Task Force
Nursing, Board of
- Nurse Aide Registry

February 22

Alcoholic Beverage Control Board, Virginia
Aviation Board, Virginia
Chesapeake Bay Local Assistance Board
- Southern Area Review Committee
Conservation and Recreation, Department of
- Goose Creek Scenic River Advisory Board
Pharmacy, Board of
Real Estate Board

February 23

Architects, Professional Engineers, Land Surveyors and Landscape Architects
Audiology and Speech-Language Pathology, Board of
† Education, Board of
Mines, Minerals and Energy, Department of
- Division of Mined Land Reclamation
† Psychology, Board of
- Advisory Committee on Certified Practices
Real Estate Board

February 24

Architects, Professional Engineers, Land Surveyors and Landscape Architects
- Architects, Board for
† Conservation and Recreation, Department of
- Virginia State Parks Foundation
† Dentistry, Board of

February 25

Visually Handicapped, Department for the
- Vocational Rehabilitation Advisory Council

February 26

† Mental Health, Mental Retardation and Substance Abuse Services Board, State

February 27

† Architects, Professional Engineers, Land Surveyors and Landscape Architects, Board for
† Information Management, Council on
† Mental Health, Mental Retardation and Substance Abuse Services Board, State
† Psychology, Board of

February 28

Health Services Cost Review Council, Virginia
Lottery Department, State
Marine Resources Commission

March 1

† Labor and Industry, Department of
- Migrant and Seasonal Farmworkers Board
Mines, Minerals and Energy, Department of
- Division of Mined Land Reclamation

March 2

† Architects, Professional Engineers, Land Surveyors and Landscape Architects, Board for
- Board for Professional Engineers
Compensation Board

Calendar of Events

- † Environmental Quality, Department of
 - Advisory Committee on Notification Process to Private Property Owners of Potential Exceptional Waters Designations
- † Health, Department of
 - Marina Regulations Advisory Committee
- † Intercommunity Transition Council, Virginia
- † Medicine, Board of

March 3

HIV Prevention Community Planning Committee, Virginia

March 6

- † Library Board
 - VLIN Task Force
- Professional and Occupational Regulation, Board for

March 7

Hopewell Industrial Safety Council
Real Estate Appraiser Board

March 8

- Agriculture and Consumer Services, Department of
 - Virginia Peanut Board
- † Emergency Planning Committee, Local - City of Alexandria
- Sewage Handling and Disposal Appeals Review Board

March 9

- † Architects, Professional Engineers, Land Surveyors and Landscape Architects, Board for
 - Board for Land Surveyors
- † Asbestos Licensing and Lead Certification, Board for
- † Psychology, Board of
 - Advisory Committee on Certified Practices

March 10

- † Agriculture and Consumer Services, Department of
 - Virginia Bright Flue-Cured Tobacco Board
- † Health, Department of
 - Marina Regulations Advisory Committee
- † Mental Health, Mental Retardation and Substance Abuse Services, Department of
 - State Human Rights Committee
- † Professional Counselors, Board of
 - Advisory Board on Rehabilitation Providers

March 12

Barbers, Board for
Library Board

- Executive Committee

March 13

Barbers, Board for
Library Board

- Archives and Records Management Committee
- Automation and Networking Committee
- By-Laws Committee
- General Library Committee
- Legislative and Finance Committee

- Nominating Committee
- Public Library Development Committee
- Publications and Cultural Affairs Committee

March 15

† Community Colleges, State Board for
Contractors, Board for
Local Debt, State Council on
Social Services, State Board of
Treasury Board

March 16

† Architects, Professional Engineers, Land Surveyors and Landscape Architects, Board for

- Board for Landscape Architects

† Community Colleges, State Board for

† Forestry, Board of

Game and Inland Fisheries, Board of

† Medicine, Board of

Social Services, State Board of

March 17

Game and Inland Fisheries, Board of

March 20

Local Government, Commission on

March 21

Emergency Planning Committee, Local - Gate City
Local Government, Commission on

March 22

† George Mason University

- Board of Visitors

Interagency Coordinating Council, Virginia
Manufactured Housing Board, Virginia

March 23

† Architects, Professional Engineers, Land Surveyors and Landscape Architects, Board for

- Board for Interior Designers

March 24

† Medicine, Board of

† Psychology, Board of

- Examination Committee

March 26

† Mental Health, Mental Retardation and Substance Abuse Services Board, State

March 27

† Agricultural Council, Virginia
Cosmetology, Board for

† Mental Health, Mental Retardation and Substance Abuse Services Board, State

March 28

† Agricultural Council, Virginia

† Polygraph Examiners Board

† Psychology, Board of

Calendar of Events

March 30

Compensation Board

March 30

† Education, Department of

April 3

† Barbers, Board for

May 3

† Criminal Justice Services, Department of

April 11

† Emergency Planning Committee, Local - Arlington
County/City of Falls Church/Washington National
Airport

April 28

† Agriculture and Consumer Services, Department of
- Virginia Winegrowers Advisory Board

PUBLIC HEARINGS

February 23

Water Control Board, State

February 27

† Water Control Board, State

February 28

† Water Control Board, State

March 8

Rehabilitative Services, Department of

March 9

Rehabilitative Services, Department of

March 13

Rehabilitative Services, Department of

March 14

Rehabilitative Services, Department of

March 16

† Optometry, Board of
Rehabilitative Services, Department of
Voluntary Formulary Board, Virginia

March 20

Local Government, Commission on

March 21

Rehabilitative Services, Department of

March 27

† Education, Department of

March 28

† Education, Department of

March 29

† Education, Department of